MARYSVILLE
MUNICIPAL
CODE

A Codification of the General Ordinances

of the City of Marysville, Washington

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PREFACE

Citation to the Marysville Municipal Code: This code should be cited as MMC; i.e., "see MMC 3.08.010." An MMC title should be cited MMC Title 3. An MMC chapter should be cited Chapter 3.08 MMC. An MMC section should be cited MMC 3.08.010. Through references should be made as MMC 3.08.010 through 3.08.040. Series of sections should be cited as MMC 3.08.010, 3.08.020, and 3.08.030.

Numbering system: The number of each section of this code consists of three parts, in sequence as follows: Number of title; number of chapter within the title; number of section within the chapter. Thus MMC 3.08.020 is Title 3, chapter 8, section 20. The section part of the number (.020) initially consists of three digits. This provides a facility for numbering new sections to be inserted between existing sections already consecutively numbered. In most chapters of the MMC, sections have been numbered by tens (.010, .020, .030, .040, etc.), leaving nine vacant numbers between original sections so that for a time new sections may be inserted without extension of the section number beyond three digits.

Legislation: The legislative source of each section is enclosed in parentheses at the end of the section. References to ordinances are abbreviated; thus "(Ord. 1122 § 1, 1992; Ord. 779 § 2, 1984)" refers to section 1 of Ordinance No. 1122 and section 2 of Ordinance No. 779. "Formerly" followed by an MMC citation preserves the record of original codification. A semicolon between ordinance citations indicates an amendment of the earlier section.

Codification tables: To convert an ordinance citation to its MMC number consult the codification tables.

Index: MMC Titles 1 through 20 are indexed in the MMC Index. The index includes complete cross-referencing and is keyed to the section numbers described above.

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The following table is included in this code as a guide for determining whether the code volume properly reflects the latest printing of each page. This table will be updated with the printing of each supplement.

Through usage and supplementation, pages in looseleaf publications can be inserted and removed in error when pages are replaced on a page-for-page substitution basis.

The "Page" column lists all page numbers in sequence. The "Revised Date" column reflects the latest revision date (e.g., "(Revised 4/96)") and printing of pages in the up-to-date volume. A "—" indicates that the page has not been revised since the 1995 republication. This table reflects all changes to the code through Ordinance 2601, passed October 24, 2005.

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Title 1

GENERAL PROVISIONS

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1.16 Public Records

Chapter 1.01

ADOPTION OF MUNICIPAL CODE

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1.01.010 Adoption of code.
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1.01.020 Effect of code.
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1.01.040 Title and citation of code.
1.01.050 Purpose of catchlines.
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1.01.070 Reference applies to amendments.
1.01.080 General penalty.
1.01.090 Savings clause.
1.01.100 Severability.
1.01.110 Repeal.

1.01.010 Adoption of code.

The codification of the ordinances of the city of Marysville of a general, public or permanent nature as contained and set forth in a printed copy thereof on file in the office of the city clerk entitled "Marysville Municipal Code," is hereby adopted as the official code of the city of Marysville, as provided for by Chapter 97, Laws of 1957, RCW 35.21.500 through 35.21.570. (Ord. 525 § 1, 1964).

1.01.015 Purpose and policy declared.

(1) All regulatory legislation contained in the Marysville Municipal Code is enacted as an exercise of the police power of the city to provide for, promote, protect and preserve the public peace, health, safety and welfare, and such legislation shall be liberally construed for the accomplishment of said purposes. It is expressly the purpose of such legislation to provide for and protect the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of such legislation.

(2) It is the specific intent of all regulatory legislation to place the obligation of complying with the requirements of the same upon the members of the public who are regulated thereby, and no provision or term used in such legislation is intended to impose any duty whatsoever upon the city or any of its officers, employees or agents, for whom the implementation or enforcement of said regulations shall be discretionary and not mandatory.

(3) Nothing contained in any regulatory legislation of the city is intended to be nor shall be construed to create or form the basis for any liability on the part of the city or its officers, employees or agents for any injury or damage resulting from the failure of any member of the public to comply with applicable regulations, or from the failure of a structure, utility, road or sidewalk to comply with applicable code requirements, or by reason or in consequence of any plan check, inspection, notice, order, certificate or approval issued in connection with the implementation or enforcement of regulatory legislation, or by reason of any action or inaction on the part of the city, or its officers, employees or agents, in connection with the implementation or enforcement of regulatory legislation. (Ord. 1127, 1980).

1.01.020 Effect of code.

As provided for by RCW 35.21.550, copies of this code in published form shall be received without further proof as the ordinances of permanent and general effect of the city of Marysville by all courts and administrative tribunals of this state. (Ord. 525 § 2, 1964).

1.01.030 Adoption of new material.

New material shall be adopted by the city council as separate ordinances prior to the inclusion thereof in such codification; provided, that any ordinance amending the codification shall set forth in full the section or sections of the codification being amended, and this shall constitute a sufficient compliance with any statutory requirement that no ordinance nor any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full. (Ord. 525 § 3, 1964).

1.01.040 Title and citation of code.

The codification hereby adopted shall be known as the "Marysville Municipal Code" and may be cited as such. The titles, chapters and sections as set forth in the codification hereby adopted are declared to be the titles, chapters and sections by which the provisions of the Marysville Municipal Code may be designated and cited. (Ord. 525 § 4, 1964).

1.01.050 Purpose of catchlines.

The catchlines appearing in connection with titles, chapters and sections of the Marysville Municipal Code are inserted as a matter of convenience, and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of the Marysville Municipal Code. (Ord. 525 § 5, 1964).

1.01.060 Continuation of ordinances.

The provisions of the Marysville Municipal Code, insofar as they are substantially the same as ordinances heretofore adopted by the city of Marysville, shall be construed as continuations thereof and not as new enactments. (Ord. 525 § 6, 1964).

1.01.070 Reference applies to amendments.

Whenever a reference is made to any portion of the Marysville Municipal Code, or to any ordinances of the city of Marysville, such reference shall apply to all amendments and additions now or hereafter made. (Ord. 525 § 7, 1964).

1.01.080 General penalty.

Unless otherwise specifically provided in the Marysville Municipal Code, any person, firm or corporation, their agents or servants, who shall violate any of the provisions of the Marysville Municipal Code shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $5,000, or imprisonment for any term not exceeding one year, or both such fine and imprisonment. (Ord. 1421 § 1, 1985; Ord. 525 § 8, 1964).

1.01.090 Savings clause.

Nothing contained in the Marysville Municipal Code adopted herein shall be construed as abating any action now pending under or by virtue of any general ordinance of the city of Marysville herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of this chapter. (Ord. 525 § 9, 1964).

1.01.100 Severability.

Each title, chapter, section and subdivision of a section of the Marysville Municipal Code, adopted by this chapter, is declared to be independent of every other title, chapter, section or subdivision of a section, and the invalidity of any title, chapter, section or subdivision of a section of the Marysville Municipal Code, adopted by this chapter, shall not invalidate any other title, chapter, section or subdivision of a section thereof. (Ord. 525 § 10, 1964).

1.01.110 Repeal.

All ordinances or parts of ordinances in conflict with the Marysville Municipal Code adopted by this chapter are repealed. (Ord. 525 § 11, 1964).

Chapter 1.04

PUBLICATION OF ORDINANCES

Sections:

1.04.020 Official newspaper designated.

1.04.020 Official newspaper designated.

The “Marysville Globe,” a weekly newspaper, published and of general circulation in the city of Marysville, is selected and designated as the official newspaper of the city, and all notices, ordinances, or other publications published in said paper for the period and in the manner provided by law or the ordinances of the city shall be due and legal notice thereof. (Ord. 1236 § 1, 1982; Ord. 881 § 1, 1975; Ord. 174 § 1, 1913).

Chapter 1.12

CLASSIFICATION OF CITY

Sections:

1.12.010 Adoption of optional municipal code.
1.12.020 Elective city officers.
1.12.030 Filling vacant city council positions.
1.12.040 Minimum process for filling vacant city council positions.

1.12.010 Adoption of optional municipal code.

There is adopted for the city the classification of noncharter code city, retaining the mayor-council plan of government under which the city is presently operated, as provided in Chapter 35A.12 RCW, endowed with all the applicable rights, powers, privileges, duties, and obligations of a noncharter code city as the same now exists, or may be provided hereafter, including any and all supplements, amendments, or other modifications of said title hereafter at any time enacted. (Ord. 909 § 1, 1976).

1.12.020 Elective city officers.

The government of the city of Marysville shall be vested in an elected mayor and an elected city council consisting of seven members. Eligibility to hold an elective office shall be established by RCW 35A.12.030. The mayor and the council members shall be elected for four-year terms and until their successors are elected and qualified. The positions to be filled for the city council shall be designated by consecutive numbers and shall be dealt with as separate offices for all election purposes. Officers shall be elected at biennial municipal elections to be conducted as provided in Chapter 35A.29 RCW; council positions 1, 2, 3 and 4 shall be filled at one such election, and the mayor's office and council positions 5, 6 and 7 shall be filled at the next such election. Election to positions on the city council shall be by majority vote from the city at large. The city council shall be the judge of the qualification of its members and determine contested elections of city officers, subject to review by certiorari as provided by law. The mayor and council members shall qualify by taking an oath or affirmation of office. (Ord. 1437 § 2, 1985).

1.12.030 Filling vacant city council positions.

In the event a vacancy or vacancies shall occur on the city council, such position(s) shall be filled until a successor to such position(s) can be elected for the remainder of the unexpired term(s) at the next municipal election. Such election process shall comply with the requirements of RCW 35A.12.050 and Chapter 42.12 RCW. In filling vacant city council positions, the city council shall be the judge of the qualifications of all applicants. Each applicant for such a vacancy must be a registered voter of the city at the time the city accepts applications for filling a vacancy, and such applicant must have continuously resided within the corporate limits of the city for at least one year next preceding the date upon which the vacancy shall be filled. Residency and voting within the limits of any territory that has been annexed to the city prior to the time the city accepts applications for filling a vacancy shall be construed to have been residency within the city. (Ord. 2199 § 1, 1998).

1.12.040 Minimum process for filling vacant city council positions.

The city council shall establish a process commensurate with the time available, which includes, at a minimum, public notification by posting and publication in the city's legal newspaper, the establishment of an application process with a clearly stated deadline for the submission of letters of interest, the development of questionnaires to assist the city council in its process, a public interview process conducted by the city council, and nominations and selection by the city council during an open public meeting. All portions of this process shall be open to the public unless the city council, in its discretion, elects to discuss the qualifications of a candidate for public office in executive session as provided in RCW 42.30.110(h). (Ord. 2199 § 2, 1998).

Chapter 1.16

PUBLIC RECORDS

Sections:

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1.16.090 Disclosure for commercial purposes prohibited.

1.16.010 Purpose of provisions.

The intent of this chapter is to provide full public access to nonexempt public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the city. The provisions of this chapter shall be construed in conjunction with Chapters 42.17, 40.14, and 10.97 RCW. (Ord. 1274 § 1, 1983).

1.16.020 Definitions.

(1) "Criminal history record information" means all matters included in the definition of said term in RCW 10.97.030. It shall not include data contained in intelligence, investigative or other related files.

(2) "Exempt public records" means and shall include all public records, or portions thereof, which are defined as being exempt from public inspection and copying by RCW 42.17.310, and all portions of criminal history record information which are defined as being exempt by Chapter 10.97 RCW. Further, exempt public records shall include privileged communications between attorney and client, the work product of city employees and agents in connection with pending or threatened litigation, and all materials and communications relating to pending real estate transactions and labor negotiations.

(3) "Public record" means and includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the city or any board, commission, official, employee or agent thereof, regardless of physical form or characteristics.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums and other documents. (Ord. 1274 § 2, 1983).

1.16.030 Records as public property.

All public records shall be and remain the property of the city. They shall be delivered by outgoing officials and employees to their successors. Public records shall be preserved, stored, transferred, destroyed and otherwise managed only in accord with the provisions of this chapter and applicable state laws. (Ord. 1274 § 7, 1983).

1.16.040 Custody of records.

The original copy of all public records shall be and remain in the custody of the city clerk. They shall not be placed in the custody of any other person or agency, public or private, or released to individuals except for disposition or destruction as provided by law. (Ord. 1274 § 8, 1983).

1.16.050 Access to for inspection and copying.

Nonexempt public records shall be available for inspection and copying, and the city, upon request for identifiable public records, shall make them promptly available to any person. All requests for public records shall be in writing using forms furnished by the city clerk. Public records shall be available for inspection and copying during all office hours of the city administrative staff. The city shall honor requests received by mail for identifiable public records. To the extent required to prevent an unreasonable invasion of personal privacy, the city shall delete identifying details when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing. Criminal history record information consisting of nonconviction data shall be deleted pursuant to RCW 10.97.060. (Ord. 1274 § 3, 1983).

1.16.060 Criminal history records and other information – Public disclosure restrictions.

No criminal history record information shall be disclosed to the public without the request for the same first being approved by the chief of police or his designee. No other public records shall be dis-

closed to the public without the request for the same first being approved by the city administrator or his designee. (Ord. 1274 § 5, 1983).

1.16.070 Copying charges.

(1) No fee shall be charged for the inspection of public records. If the requesting party desires copies of public records, said party shall pay the city the following fees, in advance:

(a) $0.15 per page;

(b) $2.00 for maps and other oversized documents;

(c) $6.00 for oversized documents requiring special handling;

(d) $10.00 for duplicating each tape cassette used in recording a public meeting or public hearing. The requesting party must furnish an adequate number of blank tape cassettes.

(2) If the city is requested to mail copies of public records, the requesting party shall pay all mailing costs incurred. (Ord. 2441 § 1, 2002; Ord. 1274 § 6, 1983).

1.16.080 Retention and destruction – Schedule.

Subject to the approval of the city council, the city records clerk shall establish a records control program, including a retention/destruction schedule for all public records of the city. Said schedule shall be kept on file in the office of the city clerk and shall be available for public inspection. Said schedule shall be submitted for approval by the Local Records Committee of the Washington State Division of Archives and Records Management. No public record of the city shall be destroyed except in compliance with the approved records control program, pursuant to RCW 40.14.070, and except upon written and witnessed documentation of such destruction by the city records manager. (Ord. 1274 § 9, 1983).

1.16.090 Disclosure for commercial purposes prohibited.

The city shall not give, sell or provide access to lists of individuals requested for commercial purposes; provided, however, that lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board. (Ord. 1274 § 4, 1983).

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

2.04 Time and Place of Council Meetings
2.08 Library Board
2.10 Cable Television Advisory Committee
2.12 Emergency Services – Disaster Plan
2.16 Civil Service Commission
2.20 Parks and Recreation
2.24 Municipal Court and Municipal Court Judge
2.28 City Attorney
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2.56 City Employees – Retirement – State System
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Chapter 2.04

TIME AND PLACE OF COUNCIL MEETINGS

Sections:

2.04.010 When meetings held.
2.04.020 Where meetings held.
2.04.030 State and federal holidays.

2.04.010 When meetings held.

(1) The Marysville city council shall hold regular public meetings on the first, second, third and fourth Mondays of each month commencing at 7:00 p.m. The meetings on the first and third Mondays of each month shall be reserved for workshops. If there is no business for which a workshop is needed, the workshop meeting may be cancelled. Provided, the city council shall not hold meetings during the month of August and on the third and fourth Mondays of December each year.

(2) Special meetings may be called by the mayor or any three of the council by written notice delivered to each member of the council at least 24 hours before the time specified for the proposed meeting. All council meetings shall be open to the public except as permitted by Chapter 42.30 RCW.

(3) The city council shall adjourn all meetings at or before 11:00 p.m., except that all workshop meetings shall be adjourned at or before 9:30 p.m.; provided, however, the adjournment time for all meetings may be extended to a later time certain upon approval of a motion by a council member. (Ord. 2483, 2003; Ord. 2376, 2001; Ord. 2249 § 1, 1999; Ord. 1867, 1991; Ord. 1844, 1991; Ord. 1661 § 1, 1988; Ord. 1528, 1987; Ord. 1390, 1984; Ord. 961, 1977; Ord. 836 § 1, 1974; Ord. 811 § 2, 1973).

2.04.020 Where meetings held.

The regular meetings of the city council shall be held in the city council chambers located on the second floor of the Public Safety Building, 1635 Grove Street, Marysville, Washington; provided, that the city council may adjourn from time to time to meet at any other publicly announced place. (Ord. 2249 § 2, 1999; Ord. 1661 § 2, 1988; Ord. 984, 1978; Ord. 77 § 2, 1900).

2.04.030 State and federal holidays.

If at any time any regular meeting of the city council falls on an officially recognized state or federal holiday, such regular meeting shall be held on the next business day, and no special notice of such meeting need be given. (Ord. 885 § 1, 1976).

Chapter 2.08

LIBRARY BOARD

Sections:

2.08.010 Board created – Appointment and term.
2.08.020 Removal from board.
2.08.030 Duties.
2.08.060 Defacing property prohibited.
2.08.070 Retention of property.
2.08.080 Penalty for violation of MMC 2.08.060 and 2.08.070.

2.08.010 Board created – Appointment and term.

There is created for the management and control of the library of the city a library board to consist of five trustees. The trustees shall be appointed by the mayor with the confirmation of the council. All members of the library board shall reside within the boundaries of the Marysville school district or the city's urban growth area. The first appointments made under this chapter shall be for terms as follows: one for one year, one for two years, one for three years, one for four years, and one for five years, respectively, and thereafter, a trustee shall be appointed annually to serve for five years. Commencing January 1st, 2005, two additional trustees shall be appointed by the mayor with the confirmation of the council establishing a total board of trustees consisting of seven members. The two additional appointments shall serve terms of two and three years respectively. Vacancies in the board of trustees may be filled for the unexpired term. Library trustees shall receive no salary or other compensation as trustees; reimbursement of actual expenses shall not exceed the amount which has been budgeted. Prior to any actual expenses being reimbursed to any trustee, the chairman of the board shall first approve such expenses. (Ord. 2551 § 1, 2004; Ord. 2136 § 1, 1997; Ord. 790 § 1, 1973).

2.08.020 Removal from board.

A trustee may be removed from the board only by a vote of the city council. (Ord. 790 § 2, 1973).

2.08.030 Duties.

The trustees, immediately after their appointment, shall meet and organize by the election of such officers as they deem necessary. They shall:

(1) From time to time adopt such bylaws, rules, and regulations for their own guidance and for the government of the library as they deem necessary subject to the approval of the city council;

(2) Have the supervision, care and custody of all property of the library subject to the approval of the city council;

(3) Accept such gifts of money or property for the library;

(4) Propose lease or propose purchase of land for library buildings;

(5) Propose lease, propose purchase, or propose erection of an appropriate building for library purposes, and propose acquisition of such other property as may be needed therefor;

(6) Do all other acts necessary for the orderly and efficient management and control of the library. (Ord. 2136 § 2, 1997; Ord. 939, 1977; Ord. 790 § 3, 1973).

2.08.060 Defacing property prohibited.

Whoever intentionally injures, defaces, or destroys any property belonging to, or deposited in, the public library, or reading room, is guilty of a misdemeanor. (Ord. 790 § 6, 1973).

2.08.070 Retention of property.

Whoever willfully retains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging in or to the library, or reading room, for 30 days after notice in writing to return the same, given after the expiration of the time that by the rules of the library board of trustees such articles or other property may be kept, is guilty of a misdemeanor. (Ord. 790 § 7, 1973).

2.08.080 Penalty for violation of MMC 2.08.060 and 2.08.070.

Any person found guilty of violating the provisions of MMC 2.08.060 or 2.08.070, or any part thereof, may be punished by a fine not to exceed $100.00, or may be imprisoned in the city jail for any period not exceeding 30 days, or by both such fine and imprisonment. (Ord. 790 § 8, 1973).

Chapter 2.10

CABLE TELEVISION ADVISORY COMMITTEE

Sections:

2.10.010 Advisory committee established.
2.10.020 Membership and terms of office.
2.10.030 Access cable coordinator.
2.10.040 Committee organization.
2.10.050 Powers and duties of committee.

2.10.010 Advisory committee established.

The Marysville cable television advisory committee is established. The purpose of the committee is to act as an advisory board to city staff, the mayor and city council for the operation and management of public, education and government (PEG) cable access television channels as provided through agreements with Marysville area cable providers. Said channels shall be used to provide programming and communicate information of general public interest to all persons who subscribe to the cable system in the greater Marysville area. (Ord. 2528, 2004; Ord. 2507, 2004; Ord. 1516, 1987).

2.10.020 Membership and terms of office.

(1) The committee shall consist of seven members, each of whom shall be appointed by the mayor, subject to confirmation by the city council. The members shall have the following qualifications:

(a) One member shall be an elected member of the city council;

(b) One member shall be a representative of the Marysville School District;

(c) Two members shall be representatives of nonprofit organizations and/or community service groups in the greater Marysville area;

(d) Three members shall be at large positions filled by Marysville citizens.

(2) Committee members shall serve a term of three years, and until their successors are duly appointed; provided, that the terms of office for three of the first members to be appointed shall be one year so as to provide for staggered retirement dates on the committee. The mayor shall have the right to remove any committee member from office whenever it is deemed to be in the public interest. (Ord. 2528, 2004; Ord. 2507, 2004; Ord. 1516, 1987).

2.10.030 Access cable coordinator.

The mayor shall appoint an employee of the city to the office of access cable coordinator. Said person shall serve at the pleasure of the mayor. The coordinator shall be responsible for administrative management of the community television channel, and shall be a staff person for the committee. (Ord. 2528, 2004; Ord. 2507, 2004; Ord. 1516, 1987).

2.10.040 Committee organization.

The councilmember designated by the mayor to serve on the committee shall serve as chairperson. Each of the members shall have one vote in all business coming before the committee. Four members shall constitute a quorum for the transaction of business. A majority of those members present shall be necessary for the adoption or approval of any measure. The committee shall hold regular public meetings at least once a month, or as necessary, and the schedule of the time and place thereof shall be kept in the office of the city clerk. Special meetings shall be called at any time upon giving 24 hours' advance notice. Committee members shall serve without compensation, but shall be entitled to reimbursement for reasonable expenses incurred in the performance of their duties on behalf of the city. (Ord. 2528, 2004; Ord. 2507, 2004; Ord. 1516, 1987).

2.10.050 Powers and duties of committee.

The committee shall act in an advisory capacity to the mayor and city council. It shall have the following specific functions:

(1) Make policy recommendations relating to management and operation of the community public, education and government channels, and propose rules and regulations for adoption by resolution of the city council;

(2) Provide guidance and assistance to the access channel coordinator in the management and operation of the community public, education and government channels, and the implementation of the rules and regulations relating to the same;

(3) Resolve disputes and complaints arising from users and viewers of the community public, education and government channels, and resolve appeals from administrative decisions made by the access channel coordinator;

(4) Monitor the needs, preferences and desires of the viewing public, and make recommendations regarding modifications to the programming and rules and regulations of the channels;

(5) Make recommendations regarding an annual budget for the channels, including the need for capital improvements;

(6) Perform such other duties as may be requested by the mayor and city council. (Ord. 2528, 2004; Ord. 2507, 2004; Ord. 1516, 1987).

Chapter 2.12

EMERGENCY SERVICES – DISASTER PLAN

Sections:

2.12.010 Statutes incorporated by reference.
2.12.020 Participation in Snohomish County department of emergency services.
2.12.030 Adoption of local disaster plan.

2.12.010 Statutes incorporated by reference.

The following statutes relating to emergency services are incorporated by reference:

RCW

38.52.070 (Establishment of local emergency service organizations)
38.52.080 (Outside aid – Rights and liabilities)
38.52.090 (Mutual aid arrangements)
38.52.100 (Appropriations – Acceptance of funds, services, etc.)
38.52.110 (Use of existing services and facilities – Impressment of citizenry)
38.52.120 (Political activity prohibited)
38.52.130 (Loyalty oath required)
38.52.140 (Status of civil service employee preserved)
38.52.150 (Orders, rules, regulations – Penalty)
38.52.180 (Immunity from liability)
38.52.190 (Compensation for injury or death)
38.52.195 (Exemption from liability while providing construction, equipment or work)
38.52.200 (Liability for compensation is in lieu of other liability)
38.52.390 (Contracts or work on cost basis for emergency services activities)
38.52.400 (Search and rescue activities)

(Ord. 1440 § 2, 1985).

2.12.020 Participation in Snohomish County department of emergency services.

Pursuant to RCW 38.52.070, the city joins as an active member and participant in the interlocal emergency services organization established and operated by the Snohomish County department of emergency services. A membership assessment shall be included within each annual budget adopted by the city, and paid to the department. (Ord. 1440 § 2, 1985).

2.12.030 Adoption of local disaster plan.

By resolution, the city council shall adopt a disaster plan for the city. The plan shall be filed with the Snohomish County department of emergency services and with the state Director of Emergency Services. Copies of the same shall be available to the public at City Hall during all business hours. The plan shall be subject to amendment at any time by resolution of the city council. (Ord. 1440 § 2, 1985).

Chapter 2.16

CIVIL SERVICE COMMISSION

Sections:

2.16.010 Civil service system established.
2.16.020 Appointment and qualifications of civil service commission.
2.16.030 Powers and duties of commission.
2.16.040 Eligibility for participation in civil service system.
2.16.050 State law adopted by reference.

2.16.010 Civil service system established.

Pursuant to Chapters 4.08 and 4.12 RCW, a combined civil service system for the police officers of the city of Marysville and the firefighters of the city of Marysville is established for the following purposes:

(1) To provide for promotion on the basis of merit;

(2) To give police officers and firefighters tenure;

(3) To provide for a civil service commission to administer the system and to investigate by public hearing removals, suspensions, demotions and discharges by the appointing power to determine whether such action was or was not made for political or religious reasons and whether it was or was not made in good faith and for cause. (Ord. 1255 § 1, 1982; Ord. 480 § 1, 1982).

2.16.020 Appointment and qualifications of civil service commission.

A joint civil service commission for the city police department and fire department is established, and shall be composed of three members to be appointed by the mayor. The commissioners shall serve without compensation. All commissioners shall be citizens of the United States, residents of the city of Marysville for at least three years immediately preceding their appointment, and electors of Snohomish County. At the time of appointment not more than two commissioners shall be adherents of the same political party. The term of office of such commissioners shall be six years; said terms shall be staggered so that not more than one expires each two years. Any member of the commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause. (Ord. 1255 § 2, 1982; Ord. 835 § 1, 1974; Ord. 480 § 2, 1962).

2.16.030 Powers and duties of commission.

The civil service commission shall have all powers and duties specified in RCW 41.08.040 and 41.12.040. It shall adopt civil service rules and regulations which substantially accomplish the purposes of Chapters 41.08 and 41.12 RCW. The duty of the civil service commission to approve payrolls of police and fire personnel is delegated to the city finance officer; provided, that the civil service commission shall retain the power to disapprove payroll disbursement to police or fire personnel in cases where such personnel, or their appointment to the classified service, violate civil service rules and regulations. (Ord. 1255 § 3, 1982; Ord. 480 § 4, 1962).

2.16.040 Eligibility for participation in civil service system.

All full-paid, uniformed and commissioned employees of the police department and fire department, including communications officers, custody officers, animal control officers and parking officers, but excluding the chief of police, clerical employees, mechanics and community service officers, shall be included in the classified civil service and shall be participants in the civil service system; provided, that such employees must first successfully qualify for permanent employment to a classified position. An employee on disability leave shall remain subject to the civil service system until such time as he or she receives disability retirement and reaches the age of 50. (Ord. 2124 § 3, 1997; Ord. 1587, 1988; Ord. 1567 § 1, 1987; Ord. 1255 § 4, 1982; Ord. 480 § 3, 1962).

2.16.050 State law adopted by reference.

Provisions of Chapters 41.08 and 41.12 RCW are adopted by reference, except to the extent that they are inconsistent with the provisions of this chapter or the rules and regulations adopted by the Marysville civil service commission, in which event this chapter and said rules and regulations shall prevail. (Ord. 1255 § 5, 1982; Ord. 480 § 5, 1962).

Chapter 2.20

PARKS AND RECREATION

Sections:

2.20.010 Parks and recreation department.
2.20.020 Director of parks and recreation.
2.20.030 Parks and recreation board established.
2.20.040 Board organization.
2.20.050 Board powers and duties.
2.20.060 Greens fees.
2.20.065 Greens fees waived for certain golf course employees.
2.20.070 *Repealed*.
2.20.080 *Repealed*.

2.20.010 Parks and recreation department.

The parks and recreation department of the city of Marysville shall have executive and administrative responsibility for the following functions:

(1) Management, operation, maintenance and improvement of all public parks, and facilities located thereon, public grounds, and landscaping on public rights-of-way;

(2) Management and operation of public recreational facilities and programs, and maintenance and improvement of such facilities;

(3) Management and operation of Cedarcrest Municipal Golf Course, and maintenance and improvement of all property and facilities thereon. (Ord. 2368 § 1, 2001; Ord. 1369 § 1, 1984).

2.20.020 Director of parks and recreation.

The director of parks and recreation, as an employee of the city, is responsible, through the chief administrative officer, to the mayor and city council. The director, with the advice and assistance of the parks and recreation board and the golf course manager, shall be responsible for the operation of all functions of the parks and recreation department, and the supervision of all employees thereof. (Ord. 2368 § 1, 2001; Ord. 1670 § 1, 1989; Ord. 1369 § 2, 1984).

2.20.030 Parks and recreation board established.

The following citizen advisory board is established:

(1) Parks and Recreation Board. The parks and recreation board shall be composed of seven members, a majority of whom shall be residents of the city, and the balance of whom may be residents from anywhere within the Marysville urban growth boundary. Board members shall be appointed by the mayor, subject to confirmation by the city council, and shall serve a term of three years and until their successors are duly appointed. The terms of office for the first five members shall be staggered. The mayor shall have the right to remove any board member from office whenever it is deemed to be in the public interest. (Ord. 2590, 2005; Ord. 2368 § 1, 2001; Ord. 2135, 1997; Ord. 1747, 1989; Ord. 1670 § 2, 1989; Ord. 1369 § 3, 1984).

2.20.040 Board organization.

The parks and recreation board shall follow the following rules for the conduct of its business. A chairperson shall be annually elected for a term of one year. Each board member shall have one vote on all business coming before the board. Four members shall constitute a quorum for the transaction of business. Three affirmative votes shall be necessary for the adoption or approval of any measure. The board shall hold regular public meetings at least 10 months during the calendar year, and the schedule of the time and place thereof shall be kept in the office of the city clerk. Board members shall serve without compensation, but shall be entitled to reimbursement for any reasonable expenses when authorized by the mayor to attend any local, state, regional or national meetings on behalf of the city. (Ord. 2368 § 1, 2001; Ord. 1670 § 3, 1989; Ord. 1369 § 4, 1984).

2.20.050 Board powers and duties.

The board shall act in an advisory capacity to the parks and recreation director and to the city council. No action shall be taken by the city on any of the following matters without first being referred to the board for a recommendation:

(1) Long-range planning for parks, recreation and golf course properties, facilities and programs;

(2) Capital improvements to parks, recreation and golf course properties and facilities;

(3) Acquisition or disposal of parks, recreation or golf course real property or facilities;

(4) Adoption of operating rules and regulations relating to parks, recreation or golf course properties and facilities;

(5) Interlocal cooperation with parks and recreation programs of other jurisdictions. (Ord. 2368 § 1, 2001; Ord. 1670 § 4, 1989; Ord. 1369 § 5, 1984).

2.20.060 Greens fees.

Greens fees charged for the use of Cedarcrest Municipal Golf Course shall be established by resolution of the city council; provided, that no such resolution shall be passed until the matter has been reviewed by the parks and recreation board and a written recommendation has been submitted by

said board to the city council. A current schedule of duly adopted greens fees shall be open to public inspection in the records of the city clerk and on the premises of the golf course. (Ord. 2368 § 1, 2001; Ord. 1670 § 5, 1989; Ord. 1610, 1988; Ord. 1369 § 6, 1984).

2.20.065 Greens fees waived for certain golf course employees.

Greens fees at Cedarcrest Municipal Golf Course shall not be charged for off-duty games of golf played by employees who work on a full-time basis at the golf course and whose familiarity with the facility is in the public interest. Such employees shall include members of the parks and recreation department who are assigned to the golf course. (Ord. 2368 § 1, 2001; Ord. 1628, 1988).

2.20.070 Golf course manager.

Repealed by Ord. 2550. (Ord. 2368 § 1, 2001; Ord. 1670 §§ 6, 7, 1989; Ord. 1369 § 7, 1984).

2.20.080 Golf professional.

Repealed by Ord. 2550. (Ord. 2368 § 1, 2001; Ord. 1670 § 8, 1989; Ord. 1369 § 8, 1984).

Chapter 2.24

MUNICIPAL COURT AND MUNICIPAL COURT JUDGE

Sections:

2.24.010 Municipal court.
2.24.020 Jurisdiction.
2.24.030 Municipal judge – Qualifications – Appointment.
2.24.040 Salary of judge; operating costs of court; court employees.
2.24.050 Judge pro tem.
2.24.060 Municipal judge – Vacancy – Appointment.
2.24.070 Municipal judge – Removal from office.
2.24.080 Oath of office.
2.24.085 Blanket bond coverage.
2.24.090 Court costs – Disposition of revenue.
2.24.100 Court sessions.
2.24.110 Change of venue.
2.24.120 Jury trials; fees and compensation.
2.24.130 Execution of sentence – Jail in lieu of fine and costs.
2.24.140 Deferral of sentence – Change of plea, dismissal.
2.24.150 Continuing jurisdiction of court after sentence.
2.24.160 Revocation of deferred or suspended sentence – Limitations – Termination of probation.
2.24.170 Issuance of criminal process.
2.24.180 Criminal prosecution in city's name for violation of ordinances.
2.24.190 Penalty if no other punishment prescribed.
2.24.200 Pleadings, practice and procedure.
2.24.210 Surcharge for dishonored checks.
2.24.220 Multiple booking fee.
2.24.225 Incarceration costs.

2.24.010 Municipal court.

There is established the municipal court of the city of Marysville. The court shall have such jurisdiction and shall exercise all powers vested in it pursuant to Chapter 3.50 RCW, together with such other powers and jurisdiction as are generally conferred by the state of Washington by either common law or by express statute upon such courts. (Ord. 1420, 1985).

2.24.020 Jurisdiction.

The municipal court shall have exclusive original jurisdiction over traffic infractions arising

under city ordinances, and shall have exclusive original criminal jurisdiction of all violations of city ordinances, and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions and parking violations, and all other civil violations arising under such ordinances and to pronounce judgment in accordance therewith. (Ord. 1933 § 1, 1993; Ord. 1420, 1985).

2.24.030 Municipal judge – Qualifications – Appointment.

A municipal judge shall be appointed by the mayor as a part-time city employee. The person appointed as municipal judge shall be a citizen of the United States of America and of the state of Washington, and an attorney admitted to practice law before the courts of record of the state of Washington.

The term of office of the first municipal judge shall expire on January 1, 1986. The term of office thereafter shall be four years, commencing on January 1st of each fourth year after 1986. Appointments shall be made on or before December 1st of the year next preceding the year in which the term commences. (Ord. 1933 § 2, 1993; Ord. 1420, 1985).

2.24.040 Salary of judge; operating costs of court; court employees.

The provisions of RCW 3.50.080 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.050 Judge pro tem.

The provisions of RCW 3.50.090 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.060 Municipal judge – Vacancy – Appointment.

The provisions of RCW 3.50.093 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.070 Municipal judge – Removal from office.

The provisions of RCW 3.50.095 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.080 Oath of office.

The municipal court judge, before entering upon the discharge of his/her duties, shall take and subscribe an oath of office. (Ord. 2150 § 2, 1997).

2.24.085 Blanket bond coverage.

If available, the city shall subscribe to and maintain blanket bond coverage by and through the Washington Cities Insurance Authority. Such coverage shall be bound for the municipal court judge before he/she enters upon the discharge of his/her official duties, and shall be in an amount of not less than $10,000.

Should blanket bond coverage not be available through the Washington Cities Insurance Authority, the municipal court judge, before entering upon the discharge of his/her official duties, shall enter into an individual faithful performance bond in the amount of not less than $10,000 with a surety approved by the mayor. (Ord. 2150 § 2, 1997).

2.24.090 Court costs – Disposition of revenue.

(1) The provisions of RCW 3.50.100 are hereby adopted and incorporated by reference.

(2) The following court costs shall apply to all cases arising from violations of city ordinances which are tried before the municipal court:

(a) Witness fees and juror fees, $10.00 (plus mileage at $0.32 per mile each way);

(b) Warrant service and return fees, $50.00;

(c) Warrant recall fees, $40.00. (Ord. 2341 § 1, 2000; Ord. 2289 § 1, 1999; Ord. 1933 § 3, 1993; Ord. 1804, 1990; Ord. 1595, 1988; Ord. 1435, 1985; Ord. 1420, 1985).

2.24.100 Court sessions.

Regular and supplemental court sessions for municipal court shall be as needed at such times and dates as determined by the municipal court judge. (Ord. 2341 § 1, 2000; Ord. 2289 § 2, 1999; Ord. 1933 § 4, 1993; Ord. 1594, 1988; Ord. 1464, 1986; Ord. 1420, 1985).

2.24.110 Change of venue.

No change of venue from the municipal court shall be allowed in actions brought for violations of city ordinances. (Ord. 1420, 1985).

2.24.120 Jury trials; fees and compensation.

The provisions of RCW 3.50.135 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.130 Execution of sentence – Jail in lieu of fine and costs.

The provisions of RCW 3.50.300 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.140 Deferral of sentence – Change of plea, dismissal.

The provisions of RCW 3.50.320 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.150 Continuing jurisdiction of court after sentence.

The provisions of RCW 3.50.330 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.160 Revocation of deferred or suspended sentence – Limitations – Termination of probation.

The provisions of RCW 3.50.340 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.170 Issuance of criminal process.

The provisions of RCW 3.50.425 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.180 Criminal prosecution in city's name for violation of ordinances.

The provisions of RCW 3.50.430 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.190 Penalty if no other punishment prescribed.

The provisions of RCW 3.50.440 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.200 Pleadings, practice and procedure.

The provisions of RCW 3.50.450 are hereby adopted and incorporated by reference. (Ord. 1420, 1985).

2.24.210 Surcharge for dishonored checks.

If a fine or penalty is paid by a check or draft which is dishonored by the drawer's bank, a surcharge of $20.00 per check shall be added to the defendant's fine or penalty. (Ord. 2341 § 1, 2000; Ord. 2289 § 3, 1999; Ord. 1933 § 5, 1993; Ord. 1507, 1987).

2.24.220 Multiple booking fee.

If a person sentenced to the Marysville jail elects, with court approval, to serve his or her sentence on nonconsecutive days, said person shall pay the city a fee of $45.00, in advance, for each additional time that he or she is booked into the jail after his or her original admission. (Ord. 2341 § 1, 2000; Ord. 2289 § 4, 1999; Ord. 2019, 1995; Ord. 1933 § 6, 1993; Ord. 1506, 1987).

2.24.225 Incarceration costs.

Once a defendant has been convicted of a misdemeanor or gross misdemeanor, unless the defendant has been found by the court, pursuant to RCW 10.101.020, to be indigent, the court may require the defendant to pay for the cost of incarceration at a rate of up to $50.00 per day of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision, shall take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendant for the cost of incarceration in the city jail shall be remitted to the city for criminal justice purposes. (Ord. 2019, 1995).

Chapter 2.28

CITY ATTORNEY

Sections:
2.28.010 Office created.
2.28.020 Appointment.

2.28.010 Office created.

There is created for the city of Marysville the office to be known as that of the city attorney. (Ord. 115 § 1, 1905).

2.28.020 Appointment.

The city attorney shall be appointed by the mayor subject to approval by a majority vote of the city council. (Ord. 575 §§ 1, 2, 1967; Ord. 115 § 2, 1905).

Chapter 2.30

CITY CLERK

Sections:
2.30.010 Position established.
2.30.020 Appointment.
2.30.030 Powers and duties.
2.30.040 Deputy city clerk.
2.30.050 Oath of office.
2.30.055 Blanket bond coverage.
2.30.060 Salary.

2.30.010 Position established.

There is established the office of city clerk in and for the city of Marysville. (Ord. 1181 § 1, 1981).

2.30.020 Appointment.

The mayor shall have the power of appointment and removal of the city clerk. Such appointment and removal shall be subject to confirmation by a majority vote of the city council. A person may be eligible for such appointment concurrently with serving in the position of finance director. (Ord. 1181 § 2, 1981).

2.30.030 Powers and duties.

The powers, duties and responsibilities of the city clerk shall be subject to the direction, authority and supervision of the city administrator, and shall include, without limitation, the following:

(1) Keep a full and true record of every act and proceeding of the city council and keep such books, accounts and make such reports as may be required by the Division of Municipal Corporations of the Office of the State Auditor;

(2) Record all ordinances passed by the city council, annexing thereto his certificate giving the number and title of the ordinance, stating the ordinance was published and posted according to law and that the record is a true and correct copy thereof;

(3) Act as custodian of the seal of the city of Marysville, and exercise the authority to acknowledge the execution of all instruments by the city requiring such acknowledgment;

(4) Perform all duties specified in RCW 35A.42.040 as applicable, pursuant to RCW 35A.29.030;

(5) Serve as registrar of voters in city precincts, if applicable, pursuant to RCW 35A.29.030;

(6) In the event of the absence of the finance director and the deputy finance director, if any, to

perform the duties of those offices as provided by law. (Ord. 1181 § 3, 1981).

2.30.040 Deputy city clerk.

The city clerk may appoint one or more deputy city clerks. In the absence of the city clerk, the deputy or deputies shall have all the powers, duties and authorities of the city clerk. (Ord. 1181 § 4, 1981).

2.30.050 Oath of office.

The city clerk, before entering upon the discharge of his/her duties, shall take and subscribe an oath of office. (Ord. 2150 § 2, 1997).

2.30.055 Blanket bond coverage.

If available, the city shall subscribe to and maintain blanket bond coverage by and through the Washington Cities Insurance Authority. Such coverage shall be bound for the city clerk before he/she enters upon the discharge of his/her official duties, and shall be in an amount of not less than $10,000.

Should blanket bond coverage not be available through the Washington Cities Insurance Authority, the city clerk, before entering upon the discharge of his/her official duties, shall enter into an individual faithful performance bond in the amount of not less than $10,000 with a surety approved by the mayor. (Ord. 2150 § 2, 1997).

2.30.060 Salary.

The city clerk shall receive a salary in such amount as the city council may from time to time establish by ordinance. (Ord. 1181 § 6, 1981).

Chapter 2.32

PUBLIC WORKS DIRECTOR

Sections:

2.32.010 Position created.
2.32.020 Appointment.
2.32.030 Scope of authority.
2.32.040 Powers and duties.
2.32.050 Salary.

2.32.010 Position created.

There is created the office of public works director in and for the city of Marysville. (Ord. 1070 § 1, 1979).

2.32.020 Appointment.

The mayor shall have the power of appointment and removal of the public works director, and said director shall serve at the pleasure of the mayor. (Ord. 1070 § 2, 1979).

2.32.030 Scope of authority.

The public works director shall serve as the city engineer, and shall further be administratively responsible for the operation of the city's street department and utility department. All authority and responsibility of the director shall be subject to the direction, authority and supervision of the city administrator. (Ord. 1070 § 3, 1979).

2.32.040 Powers and duties.

The duties, powers and responsibilities of the public works director shall include, without limitation, the following:

(1) Maintenance, repair and improvement of city streets, alleys, sidewalks, parking strips, storm drainage systems, street size, and traffic control devices. Such maintenance shall include periodic inspections of the aforesaid improvements in order to accomplish desirable preventative maintenance;

(2) Accountability for all property of the street department, including the maintenance of such equipment in good operating condition;

(3) Enforcement of the provisions of the street department code;

(4) Maintenance, repair and improvement of city sewer and water utilities, including periodic inspections of all such city facilities in order to accomplish desirable preventative maintenance;

(5) Accountability for all property of the utility department, and maintenance of said equipment in good operating condition;

(6) Enforcement and implementation of all provisions of the combined water and sewer system code;

(7) Efficient and effective utilization of all street department and utility department personnel;

(8) Preparation of recommended plans for capital improvement, construction and maintenance programs, construction standards, and recommended policy changes for the street and utility departments;

(9) Preparation of annual budget requests for the street and utility departments;

(10) Administration of requests for extensions of public streets and utilities, including services outside of the city limits when specifically authorized by the city council;

(11) Assist and advise the city planning commission and city council in reviewing proposed annexations, plats and long-range development plans;

(12) Advise the city council of all federal, state and local requirements, standards, and funding programs relating to public streets and utilities, as applicable to the city of Marysville;

(13) Assist and supervise all work performed for the city by consulting engineers, planners, architects or other specialists in related fields;

(14) Represent the city at meetings with other governmental units, agencies, commissions and associations, as directed by the city administrator;

(15) Attend, upon the request of the city administrator, meetings of the city council and planning commission. (Ord. 1070 § 4, 1979).

2.32.050 Salary.

The public works director shall receive a salary in such amount as the city council may from time to time establish by ordinance. (Ord. 1070 § 5, 1979).

Chapter 2.34

CHIEF ADMINISTRATIVE OFFICER

Sections:

2.34.010 Appointment – Removal.
2.34.020 Scope of authority.
2.34.030 Duties.
2.34.040 Salary.

2.34.010 Appointment – Removal.

There is created the position of chief administrative officer (CAO), which position shall be filled by appointment by the mayor, subject to confirmation by a majority vote of the city council. The CAO shall serve at the pleasure of the mayor and the city council, and the terms of his/her employment, including tenure, may be specified by a contract executed by the mayor with the approval of a majority of the city council. No provision of said contract may be contrary to the requirements of state law or city ordinance. (Ord. 2364, 2001; Ord. 963, 1977; Ord. 736 § 1, 1971).

2.34.020 Scope of authority.

The CAO shall be responsible for providing assistance and relief for the mayor and supervision of particular departments of the city as provided in a written job description. All authority and responsibility of the CAO shall be subject to the direction, authority and supervision of the mayor. (Ord. 2364, 2001; Ord. 736 § 2, 1971).

2.34.030 Duties.

The specific duties, powers, and responsibilities of the CAO, all subject to the direction, supervision, and authority of the mayor, shall be set forth in a written job description which may from time to time be amended by the mayor and subject to review by the city council. (Ord. 2364, 2001; Ord. 736 § 3, 1971).

2.34.040 Salary.

The CAO shall receive a salary in such amount as established by written contract approved by the city council and signed by the mayor. (Ord. 2364, 2001; Ord. 736 § 4, 1971).

Chapter 2.35

FINANCE DIRECTOR

Sections:

2.35.010 Position established.
2.35.020 Appointment.
2.35.030 Powers and duties.
2.35.040 Deputy finance director.
2.35.050 Oath of office.
2.35.055 Blanket bond coverage.
2.35.060 Salary.

2.35.010 Position established.

There is established the position of finance director in and for the city of Marysville. The position is established in lieu of, but with the same powers and responsibilities as, the position of city treasurer. (Ord. 1180 § 1, 1981).

2.35.020 Appointment.

The mayor shall have the power of appointment and removal of the finance director. Such appointment and removal shall be subject to confirmation by a majority vote of the city council. A person shall be eligible to serve in the position of finance director concurrently with the position of city clerk. (Ord. 1596, 1988; Ord. 1180 § 2, 1981).

2.35.030 Powers and duties.

The powers, duties and responsibilities of the finance director shall be subject to the direction, authority and supervision of the city administrator, and shall include, without limitation, the following:

(1) Receive and safely keep all money which comes into the city treasury, and follow all laws of the state of Washington regarding the accountability therefor;

(2) Keep such books, accounts and make such reports as may be required by the division of municipal corporations of the office of the state auditor;

(3) Exercise the duties and authority of city treasurer as provided in RCW 35A.42.010, as applicable to the city;

(4) Exercise the duties and authority of auditing officer as provided in RCW 42.24.080, as applicable to the city;

(5) In the absence of the city clerk and the deputy city clerk, if any, to perform all the duties of the city clerk as provided by law. (Ord. 1825, 1991; Ord. 1180 § 3, 1981).

2.35.040 Deputy finance director.

A deputy finance director may be appointed by the city administrator. In the absence of the finance director, the deputy shall have all the powers, duties and authority of the finance director. (Ord. 1180 § 4, 1981).

2.35.050 Oath of office.

The finance director, before entering upon the discharge of his/her duties, shall take and subscribe an oath of office. (Ord. 2150 § 2, 1997).

2.35.055 Blanket bond coverage.

If available, the city shall subscribe to and maintain blanket bond coverage by and through the Washington Cities Insurance Authority. Such coverage shall be bound for the finance director before he/she enters upon the discharge of his/her official duties, and shall be in an amount of not less than $10,000.

Should blanket bond coverage not be available through the Washington Cities Insurance Authority, the finance director, before entering upon the discharge of his/her official duties, shall enter into an individual faithful performance bond in the amount of not less than $10,000 with a surety approved by the mayor. The premium on such individual faithful performance bond shall be paid by the city. (Ord. 2150 § 2, 1997).

2.35.060 Salary.

The finance director shall receive a salary in such amount as the city council may from time-to-time establish by ordinance. (Ord. 1180 § 6, 1981).

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Chapter 2.45

JAIL FACILITIES

Sections:

2.45.010 State statutes adopted.
2.45.020 Jail booking fees.

2.45.010 State statutes adopted.

The following chapters and sections of the Washington Administrative Code to the extent that they pertain to 30-day "holding facilities" as defined therein, including all future amendments thereto, are adopted by reference pursuant to the requirements of Chapter 70.48 RCW:

(1) Chapter 289-02 WAC, Introduction and Definitions.

(2) Chapter 289-14 WAC, Custodial Care Standards – Administration.

(3) Chapter 289-15 WAC, Custodial Care Standards – Safety.

(4) Chapter 289-16 WAC, Custodial Care Standards – Operations.

(5) Chapter 289-18 WAC, Custodial Care Standards – Security.

(6) Chapter 289-19 WAC, Custodial Care Standards – Prisoner Conduct.

(7) Chapter 289-20 WAC, Custodial Care Standards – Health and Welfare.

(8) Chapter 289-22 WAC, Custodial Care Standards – Services and Programs.

(9) Chapter 289-24 WAC, Custodial Care Standards – Communications. (Ord. 1589 § 1, 1988).

2.45.020 Jail booking fees.

(1) RCW 70.48.390 as set forth below, including all future amendments, is adopted and incorporated by reference:

> RCW 70.48.390
> Fee payable by person being booked.
> A governing unit may require that each person who is booked at a city, county, or regional jail pay a fee based on the jail's actual booking costs or one hundred dollars, whichever is less, to the sheriff's department of the county or police chief of the city in which the jail is located. The fee is payable immediately from any money then possessed by the person being booked, or any money deposited with the sheriff's department or city jail administration on the person's behalf. If the person has no funds at the time of booking or during the period of incarceration, the sheriff or police chief may notify the court in the county or city where the charges related to the booking are pending, and may request the assessment of the fee. Unless the person is held on other criminal matters, if the person is not charged, is acquitted, or if all charged are dismissed, the sheriff or police chief shall return the fee to the person at the last known address listed in the booking records.

(2) Unless otherwise established by interlocal agreement, the booking fee payable by persons booked into the Marysville municipal jail shall be $32.00. (Ord. 2514 §§ 2, 3, 2004).

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Chapter 2.48

POLICE DEPARTMENT

Sections:

2.48.010 Police department.
2.48.020 Police chief.
2.48.030 Classified personnel.
2.48.040 Commissions.
2.48.050 Rules and regulations.
2.48.060 Police reserve unit.
2.48.070 Reserve officers.
2.48.080 Contract with police reserve unit.

2.48.010 Police department.

The police department of the city of Marysville shall be the law enforcement agency of this jurisdiction. Its primary function shall be the detection and apprehension of persons committing infractions or violating traffic or criminal laws duly enacted by the city, state and federal governments. The department shall operate the city jail and the city animal shelter, and shall enforce animal control laws. The department shall further perform such other duties and functions as may be delegated to it by the mayor and city council. (Ord. 1606 § 2, 1988).

2.48.020 Police chief.

The police chief shall be the commander and administrative head of the police department. The chief shall be responsible, through the city administrator, to the mayor and city council. In the absence of the police chief the command of the department shall be assumed by the next highest ranking officer of the department, unless otherwise specified by written directive from the police chief with the concurrence of the mayor or city administrator. Pursuant to RCW 41.12.050, all individuals hired and appointed as police chief after the effective date of Ordinance 2124 are hereby excluded from the classified civil service. Such individuals shall be employed by the city pursuant to the terms of an employment contract between the city and the police chief. (Ord. 2124 § 1, 1997; Ord. 1606 § 2, 1988).

2.48.030 Classified personnel.

All full-paid, uniformed and commissioned employees of the police department, including communications officers, custody officers, animal control officers and parking officers, but excluding the chief of police, clerical employees, mechanics and community service officers, shall be in the classified service, and under the jurisdiction of the civil service commission; provided, that this shall not apply to probationary employees. (Ord. 2124 § 2, 1997; Ord. 1606 § 2, 1988).

2.48.040 Commissions.

The police chief is authorized to issue the following commissions of law enforcement authority:

(1) Full commissions shall be issued to all general authority police officers in the police department who are employed on a full-time, fully compensated basis.

(2) Limited commissions shall be issued to animal control officers who are employed on a full-time, fully compensated basis. Said commissions shall authorize such officers to enforce animal control laws of the city and criminal laws relating to the authority of law enforcement officers (see Chapter 6.15 MMC).

(3) Limited commissions shall be issued to custody officers authorizing them to enforce all criminal laws relevant to the safe and secure operation of the city jail and the control of prisoners. Said commissions shall be effective only during the hours that a custody officer is on duty for the city.

(4) Reserve commissions shall be issued to reserve officers as defined in MMC 2.48.070. Said commissions shall be equivalent to full commissions whenever a reserve officer is called into active service. Said commissions shall be effective only during the hours that a reserve officer is on duty for the city.

(5) Special commissions may be issued to peace officers of other jurisdictions pursuant to Chapter 10.93 RCW. (Ord. 1606 § 2, 1988).

2.48.050 Rules and regulations.

The police chief is authorized to make and enforce such rules and regulations for the administration, implementation and enforcement of the duties, functions and responsibilities of the department as may be necessary from time to time. A copy of such rules and regulations shall be filed with the city clerk, and department, and shall be accessible by the public during all business hours of the city. (Ord. 1606 § 2, 1988).

2.48.060 Police reserve unit.

The Marysville police reserve unit shall be established and maintained as a nonprofit corporation of the state of Washington. Its articles of incorporation and bylaws are subject to review and approval by the police chief. The police chief shall be ex officio director of said corporation. The chief, or his designee, shall serve as unit commander of the police reserves. (Ord. 1606 § 2, 1988).

2.48.070 Reserve officers.

Eligibility, training requirements, certification procedures and ranks of reserve officers shall be established by the bylaws of the unit, subject to approval by the police chief. Reserve officers shall not be employees of the city, and shall be paid no compensation by the city, except to the extent that reserve officers may be hired under special circumstances as temporary employees of the city. The authority of reserve officers shall be specified by the commission issued by the police chief. All authorized duties, services and functions performed by reserved officers shall be specified, directed and supervised by the police chief or his designee. To the extent that any act or omission of a reserve officer is outside the scope of his or her authority, the reserve officer shall not be construed as being an agent of the city and the city shall not be liable for said acts or omissions. A reserve officer acting beyond his or her scope of authority shall indemnify and hold the city harmless from any and all claims or liabilities which may arise from the same. The police chief may revoke a reserve commission, and terminate a reserve officer's position at any time with or without cause. (Ord. 1606 § 2, 1988).

2.48.080 Contract with police reserve unit.

The city may enter into a contract for services with the police reserve unit. Said contract may provide for compensation to the unit for services performed for the city; the city may also provide uniforms and equipment and purchase insurance coverage for the reserve officers. (Ord. 1606 § 2, 1988).

Chapter 2.49

POLICE CORPS

Sections:

2.49.010 Recitals and findings.
2.49.020 Police Corps authorized.
2.49.030 Civil service integration.

2.49.010 Recitals and findings.

(1) The United States has adopted the Police Corps Act as Title XX, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. Sections 14091 et seq. The purposes of the Police Corps Act are to:

(a) Address violent crime by increasing the number of police with advanced education and training on community patrol; and

(b) Provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

(2) The state of Washington is sponsoring, through the Criminal Justice Training Commission, the Police Corps program in the state of Washington.

(3) A description of the Police Corps program is attached to the ordinance codified in this chapter as Appendix 1.

(4) The city endorses the Police Corps program and seeks to participate in the program through sponsorship of qualified candidates.

(5) It is the purpose of this chapter to authorize participation of the city of Marysville as a sponsoring agency for Police Corps candidates and to provide for integration of the Police Corps program into existing civil service and hiring programs. (Ord. 2430 § 1, 2002).

2.49.020 Police Corps authorized.

The city of Marysville hereby authorizes the participation in the Washington Police Corps program, subject to the terms and conditions of the Police Corps program. Subject to the review and approval of the city attorney, the mayor is authorized to enter into contracts necessary for the implementation of the Police Corps program and sponsorship of Police Corps candidates. (Ord. 2430 § 2, 2002).

2.49.030 Civil service integration.

(1) Candidates for the Police Corps program, sponsored by the city, shall be reviewed and approved by the civil service commission and appointing authority prior to sponsorship.

(2) Police Corps candidates shall be subject to all requirements of employment qualification, including, but not limited to, background testing, polygraph, and other evaluations (collectively, "testing"). Testing may be employed both prior to sponsorship and following completion of the program.

(3) Following approval of sponsorship by the civil service commission and the appointing authority, a candidate may be sponsored by the city. Upon successful graduation from the Police Corps, certification by the Washington Criminal Justice Training Commission, and completion of all testing, the candidate shall be employed as a probationary employee of the city subject to 42 U.S.C. Section 14096 and regulations applicable to all law enforcement officers of the city. (Ord. 2430 § 3, 2002).

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Chapter 2.50

PERSONNEL CODE FOR CITY EMPLOYEES

Sections:

2.50.010 Personnel rules.
2.50.020 Job classification plan.
2.50.030 Pay plan.
2.50.040 Compensation of mayor.
2.50.050 Compensation of council members.
2.50.060 Authorized reimbursements.
2.50.070 Official duties and method of reimbursement.
2.50.080 Out-of-town subsistence.
2.50.090 Use of city credit card.

2.50.010 Personnel rules.

By resolution the city council shall adopt personnel rules governing all employees of the city of Marysville. Copies of the rules shall be available for inspection during all business hours of the city at the office of the city clerk. The rules may be amended by resolution of the city council. In any instance where the rules conflict with the provisions of this chapter, collective bargaining agreements, or civil service rules relating to the classified service, the provisions of this chapter, the collective bargaining agreements and the civil service rules shall govern. (Ord. 1368 § 2, 1984).

2.50.020 Job classification plan.

By resolution the city council shall adopt a job classification plan relating to all positions of employment in the city. Maintenance of the plan, placement of positions of employment within the classification system, and reclassifications of positions shall be governed by the personnel rules. The job classification plan may be amended by resolution of the city council. (Ord. 1368 § 2, 1984).

2.50.030 Pay plan.

By resolution the city council shall adopt a pay plan establishing a schedule of salary ranges and steps within each such range. Each class of positions of city employment shall be placed in a salary range. The pay plan may be amended by resolution of the city council. The city council shall annually establish compensation levels for each salary range and step, and shall adopt the same as a part of its budget ordinance. If no such ordinance is adopted by January 1st of any year, the compensation levels for the preceding year shall automatically continue in force and effect until amended by a new budget ordinance. (Ord. 1368 § 2, 1984).

2.50.040 Compensation of mayor.

The mayor shall be paid as determined by the salary commission as set forth in Chapter 2.51 MMC. In addition to salary, the mayor shall be entitled to reimbursement for mileage and out-of-pocket expenses for out-of-town meetings only that are incurred in the performance of the duties of the office. The mayor shall not engage in any other employment that would interfere with regularly scheduled meetings or the other duties of the office. (Ord. 2559 § 1, 2005; Ord. 2363, 2001; Ord. 2163 § 1, 1997; Ord. 2113 § 1, 1997; Ord. 1972, 1993; Ord. 1765 § 1, 1990; Ord. 1665 § 1, 1989; Ord. 1614 § 1, 1988; Ord. 1500, 1986; Ord. 1391 § 1, 1984; Ord. 1368 § 2, 1984).

2.50.050 Compensation of council members.

Compensation for each council position, whether such position is filled by election or appointment, shall be determined by the salary commission as set forth in Chapter 2.51 MMC. In addition to such compensation, all council members shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of the duties of the office. Such reimbursement shall include $50.00 per day for each of the meetings that are listed below, excluding regular city council meetings and city council work sessions that are immediately after city council meetings, where said council member is acting in the capacity of an official representative of the city, not to exceed 10 days per month.

Unless the council member is being paid for his/her attendance by an organization other than the city, the following shall be considered reimbursable meetings:

(1) Attendance at official functions of the following organizations to which the city belongs: National League of Cities, Association of Washington Cities, Snohomish County Association of Cities and Towns;

(2) Attendance at meetings where the council member is appointed or elected to attend by the mayor, city council, Snohomish County Cities and Towns, Snohomish County executive, Snohomish County council, the Governor, or State Legislature if the reason for the appointment was because the individual is an elected official;

(3) City council workshops, city council retreats, emergency city council meetings, or special city council meetings;

(4) Any functions at which the council member is representing the city at the request of the mayor or by action of the city council;

(5) City facility dedications and city-sponsored graduations and award ceremonies.

The above list is intended to exclude attendance at political functions. (Ord. 2559 § 2, 2005; Ord. 2163 § 2, 1997; Ord. 1972, 1993; Ord. 1765 § 2, 1990; Ord. 1665 § 2, 1989; Ord. 1614 § 2, 1988; Ord. 1501, 1986; Ord. 1391 § 2, 1984; Ord. 1368 § 2, 1984).

2.50.060 Authorized reimbursements.

(1) Officers and employees of the city shall be entitled to the payment of or reimbursement for the following classes of expenditures while in the performance of their official duties, subject to having received prior approval from the mayor or city administrator:

(a) Transportation, lodging, meals, and other related expenditures which may be incurred within or without the city, for purposes which generally promote, develop or publicize the city's best interests and that of its municipal utilities;

(b) The costs of meals incurred on behalf of or by city personnel within the city or at other normal areas of employment while they are conferring, counseling or otherwise meeting with noncity specialists, technicians, executives, or others for purposes generally associated with the official duties of such personnel where not otherwise covered by other provisions in this section;

(c) Required registration fees, tuition, books and other educational supplies; and gratuities (commonly called tips), not to exceed 15 percent.

(2) No payment shall be made for the above expenditures unless the employee incurring the same submits receipts of verification. Reimbursement for meal costs for which a receipt is not submitted will not exceed the following schedule:

(each)	Breakfast	$4.00
	Lunch	$6.00
	Dinner	$12.00

(3) Expenses for use of personally owned vehicles of employees or officers of the city in the course of official duties shall be reimbursed at the mileage rate set by the annual budget ordinance, subject to prior approval by the mayor or city administrator. (Ord. 1368 § 2, 1984).

2.50.070 Official duties and method of reimbursement.

Official duties shall include, but not be limited to: attendance at conferences, meetings, and schools; provided, however, that no claim for reimbursement for an expense shall be allowed unless the same shall be presented in detailed account, accompanied by receipts for the expenditures for which reimbursement is claimed, duly certified by the officer and/or employee submitting such claims, and on such form and in the manner as prescribed by the Division of Municipal Corporations in the office of the state Auditor, which shall be provided by the city clerk. Further, any such claims so submitted shall be paid only upon approval by the city council. (Ord. 1368 § 2, 1984).

2.50.080 Out-of-town subsistence.

When out-of-town travel exceeds 24 hours, actual meal costs substantiated by a vendor's receipt or, at the option of the claimant, a per diem rate of $25.00 per day will be paid.

If the claimant elects to use the per diem rate, actual meal costs may be claimed when a planned group meal is part of the official program of a business meeting. When this type of officially planned meal is claimed, the per diem available for use during the remainder of that day shall be determined by deducting the appropriate scheduled meal allowance (listed above) from $25.00. Any planned meals, the cost of which is included in a registration fee, will be used to compute the remaining daily per diem allowance as described in the preceding paragraph, whether or not the employee actually partakes of the meal. (Ord. 1368 § 2, 1984).

2.50.090 Use of city credit card.

City credit cards may be used by city officials and employees, subject to Chapter 42.24 RCW and the following restrictions:

(1) Any such credit cards obtained will be issued in the name of the elected official or employee, as well as the city, and may not be used by any other person.

(2) The elected official or employee issued a city credit card shall immediately sign a receipt for the same, which statement shall also include acknowledgment that the elected official or employee understands the limitations put on the use of the credit card and that any misuse thereof shall constitute a misuse of public funds.

(3) The credit card may be used solely for covering expenses incident to authorized travel on official city business.

(4) Any credit card obtained by the city is not for any personal use or the purchase of personal items by any elected official or employee; it may not be used for personal purchases to be paid back to the city at a later date.

(5) The elected official or employee shall obtain a receipt for each purchase made with the card, and

shall submit the same, together with a fully itemized travel expense voucher, to the city finance officer not less than 10 days after the credit card billing is received by the city. Any charges on the card which are not properly identified on the travel expense voucher, or which are disallowed by the finance officer or auditing authority, shall be immediately reimbursed by the official or employee in the form of cash or a salary deduction. If, for any reason, a disallowed charge is not repaid before the credit card billing is due and payable, the city shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to the amount of the disallowed charge, plus interest at the same rate as charged by the credit card company.

(6) No official or employee who has been issued a credit card shall continue to use the card if any disallowed charge is outstanding, and shall be required to surrender the card upon demand by the finance officer, city administrator or mayor. The city reserves unlimited authority to revoke use of any credit card issued to an officer or employee, and, upon notice of such revocation being delivered to the credit card company, the city shall not be liable for any costs or charges incurred on the card thereafter. (Ord. 1368 § 2, 1984).

Chapter 2.51

SALARY COMMISSION

Sections:

2.51.010 Created – Membership, appointment, compensation, term.
2.51.020 Vacancies.
2.51.030 Removal.
2.51.040 Duties.
2.51.050 Referendum.

2.51.010 Created – Membership, appointment, compensation, term.

(1) There is created a salary commission for the city. The commission shall consist of seven members, to be appointed by the mayor with the approval of the city council.

(2) A member of the commission shall serve for a three-year term without compensation, and shall be a resident of the city. The initial members shall be appointed for staggered terms of one, two or three years.

(3) No member of the commission shall be appointed to more than two terms.

(4) A member of the commission shall not be an officer, official, or employee of the city or an immediate family member of an officer, official, or employee of the city. For purposes of this section, "immediate family member" means the parents, spouse, siblings, children, or dependent relatives of an officer, official, or employee of the city, whether or not living in the household of the officer, official, or employee. (Ord. 2475 § 1, 2003).

2.51.020 Vacancies.

In the event of a vacancy in office of commissioner, the mayor shall appoint, subject to approval of the city council, a person to serve the unexpired portion of the term of the expired position. (Ord. 2475 § 1, 2003).

2.51.030 Removal.

A member of the commission shall only be removed from office for cause of incapacity, incompetence, neglect of duty, or malfeasance in office, a crime involving moral turpitude, or for a disqualifying change of residence. (Ord. 2475 § 1, 2003).

2.51.040 Duties.

(1) The commission shall have the duty to meet annually between April 1st and June 30th, commencing the year 2006, to review the salaries paid

by the city to each elected city official. If after such review the commission determines that the salary paid to any elected city official should be increased or decreased, the commission shall file a written salary schedule with the city clerk indicating the increase or decrease in salary.

(2) Any increase or decrease in salary established by the commission shall become effective and incorporated into the city budget for the year following commission review without further action of the city council or the commission.

(3) Salary increases established by the commission shall be effective as to all city elected officials, regardless of their terms of office.

(4) Salary decreases established by the commission shall become effective as to incumbent city elected officials at the commencement of their next subsequent terms of office. (Ord. 2594 § 1, 2005; Ord. 2475 § 1, 2003).

2.51.050 Referendum.

Any salary increase or decrease established by the commission pursuant to this chapter shall be subject to referendum petition by the voters of the city, in the same manner as a city ordinance, upon filing of a referendum petition with the city clerk within 30 days after filing of a salary schedule by the commission. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by a vote of the people. Referendum measures under this section shall be submitted to the voters of the city at the next following general or municipal election occurring 30 days or more after the petition is filed, and shall otherwise be governed by the provisions of the state constitution and the laws generally applicable to referendum measures. By adoption of this provision it shall not be the intent to adopt the powers of referendum generally. (Ord. 2475 § 1, 2003).

Chapter 2.52

CITY EMPLOYEES – FEDERAL OLD AGE AND SURVIVORS INSURANCE[1]

Sections:

2.52.010 Authority to contract for social security coverage.
2.52.020 Contributions withheld.
2.52.030 City's contribution.

2.52.010 Authority to contract for social security coverage.

The city of Marysville by its mayor is hereby authorized to enter into and execute an agreement with the governor of the state of Washington or his delegated authority, to provide for the participation of the city of Marysville in the federal old age and survivors insurance program of the Federal Social Securities Act in accordance with said federal act and Chapter 184, Laws of 1951 of the state of Washington, for the purpose of providing coverage under said federal program for all employees of the city of Marysville. (Ord. 378 § 1, 1951).

2.52.020 Contributions withheld.

The clerk of the city of Marysville is authorized and directed to withhold from the salaries and wages due or to become due the employees of the city of Marysville the proper contribution required of the employees in accordance with the schedules of contribution of said federal act, regulations pertaining thereto, and such regulations as the governor of the state of Washington or his delegated authority shall issue. (Ord. 378 § 2, 1951).

2.52.030 City's contribution.

The treasurer shall pay from the funds of the city of Marysville the proper contribution of the city as related to the salaries and wages of its employees in accordance with the schedules of contribution of said federal act, regulations pertaining thereto, and such regulations as the governor of the state of Washington or his delegated authority shall issue, and such other expenses of administration as are necessary and determined by the governor of the state of Washington or his designated authority. (Ord. 378 § 3, 1951).

1. Chapter 184 of Session Laws of 1951 is codified under Chapter 41.48 RCW.

Chapter 2.56

CITY EMPLOYEES – RETIREMENT – STATE SYSTEM

Sections:

2.56.010 Authority to participate and expend funds.
2.56.020 Transmitting evidence of authorization.

2.56.010 Authority to participate and expend funds.

The city of Marysville does authorize and approve the membership and participation of its eligible employees in the state employees' retirement system, pursuant to RCW 41.40.410, and authorizes the expenditure of the necessary funds to cover its proportionate share for participation in the system. (Ord. 492 § 1, 1962).

2.56.020 Transmitting evidence of authorization.

The city clerk is hereby directed to transmit a certified copy of this chapter to the retirement board of the system as evidence of such authorization and approval. (Ord. 492 § 2, 1962).

Chapter 2.60

FIRE DEPARTMENT

Sections:

2.60.010 Combined fire departments.
2.60.020 Marysville fire board.
2.60.030 Appointment of members – Terms.
2.60.040 Powers and duties.
2.60.050 Fire department.
2.60.060 Personnel.
2.60.070 Rules and regulations.
2.60.080 Chain of command.

2.60.010 Combined fire departments.

Pursuant to an Interlocal Agreement effective January 1, 1992 between the city of Marysville and Snohomish County fire protection district no. 12, the fire departments of each entity have been combined into a joint operation known as the "Marysville fire district." For purposes of this chapter, all references to the "Marysville fire department" or "fire department" shall mean the "Marysville fire district." All references to the "Marysville volunteer fire department" shall mean the volunteer fire department of the Marysville fire district. All references to the "fire chief" or "chief" shall mean the fire chief of the Marysville fire district. All references to the "interlocal agreement" shall mean the interlocal agreement between the city and Snohomish County fire protection district no. 12, effective January 1, 1992. (Ord. 1879 § 1, 1992).

2.60.020 Marysville fire board.

There is created for the joint management, supervision and control of the combined fire departments of the city of Marysville and Snohomish County fire protection district no. 12 the Marysville fire board, which shall consist of the city's representatives on the joint fire board established by the interlocal agreement. Members of the Marysville fire board shall serve in an advisory capacity to the mayor and city council and shall have such other powers and duties as may be provided by the interlocal agreement or as otherwise delegated to it by the mayor and city council. (Ord. 1879 § 2, 1992).

2.60.030 Appointment of members – Terms.

The Marysville fire board established herein shall be composed of three city council members, all of whom shall be appointed by the city council. The term of each city council member's appointment shall be the term of his office unless all three members have the same term of office in which case one city council member shall be appointed for a two-year term. A member may be removed from the board by the mayor and subject to a majority vote of the city council for inefficiency, neglect of duty, misconduct, or other good cause, subject to a majority vote of the city council. (Ord. 2506, 2004; Ord. 1879 § 3, 1992).

2.60.040 Powers and duties.

The Marysville fire board shall act as the city's representative on the six-member joint board of the Marysville fire district and shall have all duties and powers as set forth in the interlocal agreement as it now reads or is hereinafter amended. The Marysville fire board shall also perform such other duties and responsibilities as may be specifically delegated by the mayor and city council, including, but not limited to, the making of periodic reports to the mayor and city council concerning the budget, operations and other functions of the Marysville fire district, and all other matters pertaining to the fire and emergency medical services provided by the Marysville fire district. (Ord. 1879 § 4, 1992).

2.60.050 Fire department.

The fire department shall have responsibility for the following duties and functions, subject to supervision and control by the joint fire board established pursuant to the interlocal agreement:

(1) The prevention of fires;

(2) The suppression or extinguishing of dangerous or hazardous fires;

(3) The investigation of the cause, origin and circumstances of fire;

(4) Enforcement of the Uniform Fire Code pursuant to Chapter 9.04 MMC;

(5) Enforcement of the Fireworks Code pursuant to Chapter 9.20 MMC;

(6) Provide emergency medical service pursuant to Chapter 9.24 MMC;

(7) Enforcement of the Washington Clean Indoor Air Act pursuant to Chapter 7.16 MMC; and

(8) Perform such other duties and functions as may be delegated to the department under the interlocal agreement or by the elected officials of the city and fire district no. 12. (Ord. 1879 § 5, 1992).

2.60.060 Personnel.

The fire chief shall be the administrative head of the fire department. He shall be responsible through the joint fire board to the elected officials of the city and fire district no. 12. (Ord. 1879 § 6, 1992).

2.60.070 Rules and regulations.

The fire chief, with the approval of the joint fire board, is authorized to make and enforce such rules and regulations for the administration, implementation and enforcement of the duties, functions and responsibilities of the department as may be necessary from time to time. A copy of such rules and regulations shall be filed with the city clerk and department, and shall be accessible by the public during all business hours of the city. (Ord. 1879 § 7, 1992).

2.60.080 Chain of command.

The chain of command of the Marysville fire district shall be as established by the interlocal agreement and such other rules and regulations as are adopted by the fire chief and are approved by the joint fire board of the Marysville fire district. (Ord. 1879 § 8, 1992).

Chapter 2.70

HEARING EXAMINER*

Sections:

2.70.010 Purpose.
2.70.020 Creation of office.
2.70.030 Appointment.
2.70.040 Qualifications.
2.70.050 Removal.
2.70.060 Conflict of interest and appearance of fairness.
2.70.070 Freedom from improper influence.
2.70.080 Rules.
2.70.090 Duties.
2.70.100 Public hearings.
2.70.110 Examiner's decision.
2.70.120 Notice of examiner's decision.
2.70.130 Decision final action by city.
2.70.140 Conflicting code provisions and rules of procedure.

*Prior legislation: Ordinance No. 1817.

2.70.010 Purpose.

The purpose of this chapter is to establish a quasi-judicial hearing system which will ensure procedural due process and appearance of fairness in regulatory hearings and will provide an efficient and effective hearing process for quasi-judicial matters. (Ord. 2202 § 1, 1998).

2.70.020 Creation of office.

The office of hearing examiner, hereinafter referred to as "examiner," is created. The examiner shall perform the duties and functions specified in this chapter, together with such other quasi-judicial duties and functions as may be delegated by the mayor and city council. Unless the context requires otherwise, the term "examiner" as used herein shall include any examiner pro tem who may be appointed. (Ord. 2202 § 1, 1998).

2.70.030 Appointment.

The examiner shall be appointed by the mayor subject to confirmation by a majority vote of the city council. The terms of the examiner's employment shall be specified by a professional service contract. An examiner pro tem may also be appointed by the mayor subject to confirmation by majority vote of the city council. An examiner pro tem shall serve in the event of absence or disqualification of the examiner. (Ord. 2202 § 1, 1998).

2.70.040 Qualifications.

The examiner shall be appointed solely with regard to his or her qualification for the duties of the office, and will have such training and experience as will qualify the examiner to conduct administrative and quasi-judicial hearings on regulatory enactments and to discharge such other functions conferred upon the examiner by the mayor and city council. The examiner shall hold no other elective or appointive office or position in city government. (Ord. 2202 § 1, 1998).

2.70.050 Removal.

The examiner may be removed from office for cause by the mayor, subject to confirmation by majority vote of the city council. (Ord. 2202 § 1, 1998).

2.70.060 Conflict of interest and appearance of fairness.

The examiner shall not conduct or participate in any hearing or decision in which the examiner has a direct or indirect personal interest which might influence the examiner or interfere with the examiner's decision-making process. Any actual or potential conflict of interest shall be disclosed to the parties immediately upon discovery of such conflict. The hearing shall then be conducted by an examiner pro tem.

The appearance of fairness doctrine, as specified in Chapter 42.36 RCW, shall apply to all proceedings conducted by the examiner, and may result in the examiner's disqualification when necessary. (Ord. 2202 § 1, 1998).

2.70.070 Freedom from improper influence.

No council member, city official or any other person shall attempt to interfere with or improperly influence the examiner in the performance of his or her designated duties. (Ord. 2202 § 1, 1998).

2.70.080 Rules.

The examiner shall have the power to prescribe rules and regulations for the scheduling and conduct of hearings and other procedural matters related to the duties of the office. The rules shall provide that all public hearings be held after 6:00 p.m., except under special circumstances authorized by the mayor. (Ord. 2202 § 1, 1998).

2.70.090 Duties.

The examiner is vested with the duty and authority to hold public hearings and render decisions on the following matters:

(1) Preliminary plats;

(2) Appeals from administrative decisions on short plats;

(3) Rezones; except area-wide rezones initiated by the city itself shall be heard by the planning commission;

(4) Binding site plan approvals when subject to public review;

(5) Conditional use permits when subject to public review;

(6) Zoning code variances;

(7) Administrative appeals from decisions and interpretations by city staff relating to land use codes, SEPA and permits;

(8) Conditional shoreline development permits, variances and appeals from administrative determinations arising under Chapter 18.16 MMC;

(9) Complaints by citizens or city staff seeking administrative enforcement of provisions of city land use codes or conditions in development permits and approvals, or seeking rescission or modification of such permits or approvals;

(10) Variances and administrative appeals arising from the city's sign code;

(11) Variances and administrative appeals arising from the city's floodplain management code;

(12) Variances and administrative appeals arising under the city's street department code;

(13) Such other regulatory, enforcement or quasi-judicial matters as may be assigned to the examiner by the mayor and city council. (Ord. 2202 § 1, 1998).

2.70.100 Public hearings.

Where public hearings are required by state statute or city code, the examiner shall hold at least one such hearing prior to rendering a decision on any matter. All testimony at any such hearing shall be taken under oath. Public notice of the time and place of the hearing shall be given as required by city code. (Ord. 2202 § 1, 1998).

2.70.110 Examiner's decision.

Within 15 calendar days after the conclusion of a hearing, unless a longer period is agreed to by the applicant in writing or verbally on the record at the public hearing, the examiner shall render a written decision which shall include at least the following:

(1) Findings of fact based upon the record and conclusions therefrom which support the decision;

(2) The decision shall state whether the application is either granted, granted in part, granted with conditions, modifications or restrictions, returned to the applicant for modification, denied with prejudice or denied without prejudice;

(3) If a time limit exists for filing an administrative or judicial appeal of the decision, said time limit shall be disclosed. (Ord. 2202 § 1, 1998).

2.70.120 Notice of examiner's decision.

Not later than five calendar days following the rendering of a written decision, copies thereof shall be mailed to the applicant and other parties of record in the case. "Parties of record" shall include the applicant and all other persons who specifically request notice of the decision. The examiner may establish rules for registering parties of record. (Ord. 2202 § 1, 1998).

2.70.130 Decision final action by city.

Unless specifically provided otherwise by ordinance, all decisions of the hearing examiner shall be final action by the city. Hearing examiner decisions shall be appealable pursuant to Chapter 15.11 MMC. (Ord. 2202 § 1, 1998).

2.70.140 Conflicting code provisions and rules of procedure.

Any and all provisions of this code, and any and all provisions of the rules of procedure adopted by the examiner, which are in conflict with this chapter are superseded. (Ord. 2202 § 1, 1998).

Chapter 2.80

CODE OF ETHICS

Sections:

2.80.010 Declaration of policy.
2.80.020 Use of public property.
2.80.030 Obligations to citizens.
2.80.040 Code of ethics.
2.80.045 Confidentiality.
2.80.050 Penalties.
2.80.060 Board of ethics – Organization.
2.80.070 Board of ethics – Powers and duties.
2.80.080 Board of ethics – Meetings.
2.80.090 Board of ethics – Hearings and investigations.
2.80.100 Board of ethics – Review by city council.

2.80.010 Declaration of policy.

High moral and ethical standards among public officials and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. They are agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires of public officials and employees that they be independent and impartial when establishing policy and that their positions never be used for personal gain. A code of ethical conduct is necessary for the guidance of public officials where conflicts do occur as well as to prevent conflicts of interest. (Ord. 770 § 1, 1972).

2.80.020 Use of public property.

No official or employee shall request or permit the use of city owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business. (Ord. 770 § 2(a), 1972).

2.80.030 Obligations to citizens.

No official or employee shall grant, nor shall any citizen attempt to obtain, any special consideration, treatment or advantage beyond that which is available to every other citizen. (Ord. 770 § 2(b), 1972).

2.80.040 Code of ethics.

The purpose of the code of ethics is to assist city officials and employees to establish guidelines to govern their own conduct. The code is also

intended to help develop traditions of responsible public service. No official or employee shall engage in any act which is in conflict with the performance of his official duties. An official or employee shall be deemed to have conflict of interest if he:

(1) Receives or has any financial interest in any sale to or by the city of any service or property when such financial interest was received with the prior knowledge that the city intended to purchase such property or obtain such service;

(2) Accepts or seeks for others any service, information or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the city;

(3) Accepts any gift or favor from any person, firm or corporation having any dealings with the city if he knows or has reason to know that it was intended to obtain special consideration;

(4) Influences the selection of or the conduct of business with a corporation, person or firm having business with the city if he personally or through household relatives has financial interest in or with the corporation, person or firm;

(5) Is an employee, officer, partner, director or consultant of any corporation, firm or person having business with the city, unless he has disclosed such relationship as provided by this chapter;

(6) Engages in or accepts private employment or renders services for private industry when such employment or service is incompatible with the proper discharge of his official duties or would impair his independence of judgment or action in the performance of his official duties;

(7) Appears in behalf of a private interest before any regulatory governmental agency, or represents a private interest in any action or proceeding against the interest of the city in any litigation to which the city is a party, unless he has a personal interest and this personal interest has been disclosed to the regulatory governmental agency. A city councilman may appear before regulatory governmental agencies on behalf of constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations; however, no official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency;

(8) Directly or indirectly possess a substantial or controlling interest in any business entity which conducts business or contracts with the city, or in the sale of real estate, materials, supplies or services to the city, without disclosing such interest as provided by this chapter. An interest is not a sub-

stantial interest if such interest does not exceed one-tenth of one percent of the outstanding securities of the business concern; or, if the interest is an unincorporated business concern, one percent of the net worth of such concern; or the financial interest of a corporation, person or firm does not exceed five percent of the net worth of the employee and his household relatives;

(9) As a city councilman has a financial or other private interest in any legislation or other matters coming before the council and fails to disclose such an interest on the records of the city council. This provision shall not apply if the city councilman disqualifies himself from voting by stating the nature and extent of such interest. Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the city council and fails to disclose on the records of the city council the nature and extent of such interest is in violation of this chapter;

(10) Violates any ordinance or resolution of the city;

(11) Violates the confidentiality of his position;

(12) Makes any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation. (Ord. 808 § 1, 1973; Ord. 770 § 3, 1972).

2.80.045 Confidentiality.

The city imposes the duty of every city employee, city advisor, and city council member to maintain his confidence on any city business or information pertaining to the city of which he has knowledge regardless whether that knowledge is gained in his or her normal work; provided, however, this confidence shall not apply to matters of public record as defined by Initiative 276 and subsequent amendments thereto, nor to matters which are necessary to relate or converse about in the performance of the official duties of that city employee, advisor and/or council member. One does not maintain his confidence as used herein by speaking, writing or uttering in any manner to persons who are not at the time of such speaking, writing or uttering in the employ of, advisor to, or council member of the city. (Ord. 808 § 2, 1973).

2.80.050 Penalties.

Any person willfully violating this chapter is guilty of a misdemeanor and is subject to the civil penalties provided herein for the negligent violation of this chapter.

An employee of the city found guilty of a negligent violation of this chapter is subject to civil penalties up to and including termination from employment and/or loss of pay not to exceed one month's salary.

Any elected official found guilty of a negligent violation of this chapter is subject to a civil penalty of loss of pay not to exceed one month's salary. In addition to the sanctions for aiding, abetting, seeking or requesting a violation of this chapter, any person or organization which willfully attempts to secure preferential treatment in its dealings with the city by offering any valuable gifts, whether in the form of services, loan, thing or promise, or any other form to any city official or employee, shall have its current contracts with the city canceled and shall not be able to bid on any other city contracts for a period of two years. (Ord. 770 § 4, 1972).

2.80.060 Board of ethics – Organization.

There is created a board of ethics, composed of three members, one to be appointed by the mayor, one to be appointed by two-thirds vote of the city council, and the third, who shall be chairman, to be appointed by the other two members. The terms of the board members shall be three years. The first three members shall be appointed for one-, two- and three-year terms, respectively. The chairman shall have a three-year term. The terms of the other two are to be determined by lot. No member of the board of ethics shall simultaneously hold any city office, elected or appointed, nor shall he be an employee of the city. Any member of the board of ethics may be removed for just cause by a two-thirds vote of the city council, after written charges have been served on such member and a public hearing has been held by the city council. (Ord. 929 § 2, 1977).

2.80.070 Board of ethics – Powers and duties.

(1) The board of ethics shall be purely an advisory board to the city council.

(2) The board shall perform the following duties:

(a) Upon request of a city official or employee, the board shall render advisory opinions, in writing, concerning questions of ethics, conflicts of interest and the applicability of this chapter. Written copies of such opinions shall be released only when the board deems it to be in the public interest. Upon release, copies shall be delivered to the requesting party and to the mayor. Such opinions may be made public only upon deleting such material as may be necessary to protect the confidence and privacy of city officials and employees.

(b) Upon receiving a written complaint regarding a violation of this chapter, accompanied by proof that said written complaint has been served upon the party who is accused, the board shall investigate said complaint and, if it deems it necessary, shall conduct a hearing and issue findings as provided below.

(c) Upon its own motion, the board may investigate any suspected or alleged violation of this chapter and, if it deems it necessary, shall conduct a hearing and issue findings as provided below; provided, however, no such hearing shall be conducted unless the accused is first served with written copy of the allegations against him.

(d) The board shall keep such records as may be necessary for the proper administration of this chapter. (Ord. 929 § 3, 1977).

2.80.080 Board of ethics – Meetings.

The board shall meet as frequently as it deems necessary. A majority of the board shall constitute a quorum. Meetings shall be open or closed to the public at the discretion of the board and as allowed under the Washington State Open Meetings Act. (Ord. 929 § 4, 1977).

2.80.090 Board of ethics – Hearings and investigations.

In the course of an investigation, the board may determine that it is necessary to conduct a hearing. If the investigation involves accusations against an officer or employee, such hearings shall be closed to the public unless such officer or employee requests that it be a public hearing. The board may administer oaths in connection with any matter under inquiry. Any witness in a proceeding before the board shall have the right to be represented by counsel. No informality in any proceedings or hearings, or in the manner of taking testimony before the board, shall invalidate any decision or findings made, approved or confirmed by the board. At the conclusion of each investigation, the board shall render written findings of fact and recommendations. Copies of the same shall be delivered to the party who was the subject of the investigation, the mayor and the city council. (Ord. 929 § 5, 1977).

2.80.100 Board of ethics – Review by city council.

The city council shall review the findings and recommendations of the board of ethics. No such findings or recommendations shall be final or effective unless and until approved and implemented by resolution of the city council. The city council, in its discretion, may render its decision based upon the findings and recommendations of the board of ethics without further investigation or public hearing. (Ord. 929 § 6, 1977).

Chapter 2.84

LEGAL ACTION AGAINST CITY OFFICIALS AND EMPLOYEES

Sections:

2.84.010 Definitions.
2.84.020 Legal representation.
2.84.030 Conditions of representation or payment of claims or judgments.
2.84.040 Refusal to cooperate to render chapter inapplicable.
2.84.050 Certain actions and occurrences excluded.
2.84.060 Payment of claims.
2.84.070 Conflict with insurance policies.

2.84.010 Definitions.

As used in this chapter, the following definition shall apply:

"Officials and employees" means all elected city officials, including the mayor and members of the city council, together with the city administrator, the municipal judge, the city attorney, the city engineer, the city clerk, the police chief and the fire chief, and all full-time employees of the city. (Ord. 971 § 1, 1977).

2.84.020 Legal representation.

As a condition of their service and employment for and on behalf of the city of Marysville, the city shall provide to all officials and employees such legal representation as may be reasonably necessary to defend any claims and/or litigation resulting from any conduct, acts or omissions of such officials or employees arising from the scope or course of their service or employment with the city of Marysville, including claims and/or litigation by officials or employees against other officials or employees. (Ord. 971 § 2, 1977).

2.84.030 Conditions of representation or payment of claims or judgments.

Except as may be provided in any applicable municipal policy of insurance, the city attorney, or an attorney designated by the city attorney, at the request and on behalf of any official or employee of the city, shall investigate and defend such claims or litigation, and, if a claim is deemed by the city attorney to be a proper claim, or if judgment is rendered against such an official or employee, such claim or judgment shall be paid by the city; provided, that:

(1) In the event of any incident or course of conduct giving rise to a claim for damage and/or litigation, the official or employee involved, as soon as practicable, shall give the city attorney written notice thereof, identifying the official or employee involved, and containing all information known to the official or employee with respect to the date, time, place and circumstances surrounding the incident or conduct, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses;

(2) Upon receipt thereof, the official or employee shall forthwith deliver any demand, notice, summons or other process relating to any such incident or conduct to the city attorney, and shall cooperate with the city attorney or an attorney designated by the city attorney, and, upon request, shall assist in making settlements of any suits and in enforcing any claim for any right of subrogation against any persons or organization that may be liable to the city because of any damage or claim of loss arising from said incident or course of conduct;

(3) Such officials or employees shall attend interviews, depositions, hearings and trials, and shall assist in securing and giving evidence and obtaining the attendance of witnesses;

(4) Such officials or employees shall not accept nor voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. (Ord. 971 § 3, 1977).

2.84.040 Refusal to cooperate to render chapter inapplicable.

In the event that any official or employee covered by this chapter fails or refuses to cooperate as provided in MMC 2.84.030, or elects to provide his own representation with respect to any such claim and/or litigation, then the provisions of this chapter shall be inapplicable and of no force and effect with respect to any such claim and/or litigation. (Ord. 971 § 4, 1977).

2.84.050 Certain actions and occurrences excluded.

The obligations assumed under this chapter by the city and the city attorney shall not apply to any dishonest, fraudulent, criminal or malicious act of an official or employee, or to any act of an official or employee which is outside of the scope and course of his or her duties and employment with the city. Further, the provisions of this chapter shall have no force and effect with respect to any accident, occurrence or circumstance in which the city

or the officials or employees are insured against loss or damages under the terms of any valid insurance policy. (Ord. 971 § 5, 1977).

2.84.060 Payment of claims.

The provisions of this chapter shall not modify existing procedures or requirements of law for processing and payment of claims against the city, or of judgments in those cases in which the city is a party defendant. (Ord. 971 § 6, 1977).

2.84.070 Conflict with insurance policies.

Nothing contained in this chapter shall be construed to modify or amend any provision of any policy of insurance wherein the city of Marysville or any official or employee thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provision shall be controlling. (Ord. 971 § 7, 1977).

Chapter 2.88

DISABILITY BOARD

Sections:

2.88.010 Board established and jurisdiction.
2.88.020 Membership.
2.88.030 Duties.
2.88.040 Meetings.
2.88.050 Compensation.

2.88.010 Board established and jurisdiction.

The city of Marysville, having a population of over 20,000 persons, pursuant to the authority in RCW 41.26.110, hereby establishes a disability board for the Washington Law Enforcement Officers and Firefighters Retirement System within or employed by the city of Marysville. (Ord. 2350 § 1, 2000).

2.88.020 Membership.

(1) The disability board shall consist of the following five members:

(a) Two members of the city council to be appointed by the mayor and ratified by the city council;

(b) One active or retired firefighter to be elected by the firefighters employed by or retired from the city of Marysville;

(c) One active or retired law enforcement officer to be elected by the law enforcement officers employed by or retired from the city of Marysville;

(d) One member of the public-at-large who resides within the city of Marysville shall be appointed by the other four members heretofore designated in this section.

(2) Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Elections pursuant to this section shall be conducted and administered by the secretary of the disability board.

(3) All members appointed or elected pursuant to this section shall serve a two-year term, with the exception of the police officer member and one council member who on the first term shall only serve a one-year term, and all terms shall expire on the 31st day of December of the last year for which the term is made; provided, that members shall remain in office until their successors are confirmed. Any member who ceases to have the qualifications provided in this section shall be deemed to have forfeited his or her office.

(4) Vacancies occurring otherwise than through the expiration of terms shall be filled for the remainder of the term of the member being replaced. Vacancies shall be filled in the same manner as original appointments. (Ord. 2350 § 2, 2000).

2.88.030 Duties.

The board shall perform all functions, exercise all powers, and make all determinations as specified in Chapter 41.26 RCW, as now or hereafter amended. (Ord. 2350 § 3, 2000).

2.88.040 Meetings.

The members of the board shall at the first meeting of the year, or the first meeting after appointments have occurred if the board desires, select from among their members a chairperson and chairperson pro tem, and such other offices as may be necessary, who shall serve in that capacity for a one-year term commencing with the first meeting of the year. The presence of three members of the board shall be required to constitute a quorum for the transaction of business. Public meetings of the board shall be held at a scheduled time and place established by the members of the board.

The board shall appoint a secretary to take minutes and maintain the disability board's records. (Ord. 2350 § 4, 2000).

2.88.050 Compensation.

The members of the board shall serve without compensation for their service but the members shall be reimbursed for travel expense incidental to such service as to the amount authorized by law. (Ord. 2350 § 5, 2000).

Title 3

REVENUE AND FINANCE[1]

Chapters:

3.12 Growth Management Fund
3.16 Local Improvement Guaranty Fund
3.18 General Cumulative Reserve Fund
3.20 Surface Water Utility Fund
3.30 Utility Construction Fund
3.32 Current Expense Fund
3.40 Combined Water and Sewer System Revenue Fund
3.49 Payroll Fund
3.50 Claims Fund
3.51 Petty Cash Fund
3.52 Current Use Assessment on Lands
3.53 Travel Advance Fund
3.60 Local Improvements, Special Assessments and Bonds
3.63 Utility Rate Relief for Low-Income Senior Citizens and Disabled Persons
3.64 Utilities Tax
3.65 Water and Sewer Department Gross Receipts Tax
3.66 Water and Sewer Utility Tax
3.67 Solid Waste Department Gross Receipts Tax
3.68 Leasehold Excise Tax
3.69 Surface Water Utility Gross Receipts Tax
3.70 Golf Course Operating Fund
3.76 Municipal Arts Fund
3.80 Marysville Technology Infrastructure Fund
3.84 Sales and Use Tax
3.88 Real Estate Excise Tax
3.89 Historic Property Special Property Tax Valuation
3.90 Tribal Gaming Fund
3.92 Gambling Activities Tax
3.93 Hotel/Motel Tax
3.94 Drug Buy Fund
3.95 Criminal Investigations Fund
3.96 Donations, Devises or Bequests
3.97 Drug Enforcement Fund
3.98 Bond and Obligation Registration
3.99 Ken Baxter Senior/Community Center Appreciation Fund
3.100 Retainage Bonds

1. Garbage disposal fund, see MMC Title 7.
Payment for federal old age and survivors' insurance contribution, see MMC Title 2.
Expenditure of funds for participation in state retirement system, see MMC Title 2.

Chapter 3.12

GROWTH MANAGEMENT FUND

Sections:
3.12.010 Fund created.
3.12.020 Source of moneys.
3.12.030 Expenditures.

3.12.010 Fund created.

There is hereby created and established a fund to be designated as "the growth management fund." (Ord. 1134 § 1, 1980; Ord. 1066 § 1, 1979).

3.12.020 Source of moneys.

The growth management fund shall include deposits from the following sources:

(1) All proceeds prior to July 1, 1982, from the city's excise tax on the business of developing real estate for residential purposes and the business of constructing new residential dwelling units;

(2) All mitigation assessments paid to the city pursuant to Chapter 18.24 MMC;

(3) All funds donated to the city for growth management purposes;

(4) All funds appropriated by the city for such purposes and specifically deposited in the growth management fund. (Ord. 1251 § 5, 1982; Ord. 1134 § 2, 1980; Ord. 1066 § 2, 1979).

3.12.030 Expenditures.

Expenditures from said fund may be made by the city council only for the purposes of acquisition, maintenance and capital improvements to city parks, recreational facilities and open space; acquisition, maintenance and capital improvements to city streets, sidewalks, appurtenances and traffic-control devices; acquisition, maintenance and capital improvement to storm drainage and flood control facilities; and acquisition and capital improvements for city police and fire departments. All such expenditures must be directly related to the mitigation of impacts resulting from growth and development in the city of Marysville. Expenditures of mitigation assessments collected pursuant to Chapter 18.24 MMC shall be subject to the additional special restrictions contained in said chapter. (Ord. 1251 § 6, 1982; Ord. 1134 § 3, 1980; Ord. 1066 § 3, 1979).

Chapter 3.16

LOCAL IMPROVEMENT GUARANTY FUND

Sections:
3.16.010 Created – Purpose.
3.16.020 Statutes incorporated by reference.
3.16.030 Additional sources of funds.
3.16.040 Basis of assessments – Limiting improvements.
3.16.050 Degree of claim by holder of bonds, warrants.

3.16.010 Created – Purpose.

There is established for the city of Marysville a fund for the purpose of guaranteeing, to the extent of such fund, and in the manner hereinafter provided for, the payment of its local improvement bonds and warrants issued to pay for any local improvement orders. (Ord. 253 § 1, 1927).

3.16.020 Statutes incorporated by reference.

The following state statutes, including any amendments of the same which may hereinafter be enacted by the Washington State Legislature, are incorporated into this code by reference:

RCW
35.54.030 Source – Interest and Earnings
35.54.040 Source – Subrogation Rights to Assessments
35.54.050 Source – Surplus from Improvement Funds
35.54.060 Source – Taxation
35.54.070 Use of Fund – Purchase of Bonds, Coupons and Warrants
35.54.080 Use of Fund – Purchase of General Tax Certificates or Property on or After Foreclosure – Disposition
35.54.090 Warrants Against Fund
35.54.095 Transfer of Assets to General Fund
35.54.100 Deferral of Collection of Assessments for Economically Disadvantaged Persons

(Ord. 1756 § 2, 1990).

3.16.030 Additional sources of funds.

The aggregate of the final assessment roll for each local improvement district may be increased by a surcharge in an amount up to 10 percent of the same, and said surcharge, upon collection, shall be deposited in the local improvement guaranty fund.

As an alternative to an assessment surcharge, property owners within a local improvement district may, at their initiative, provide the city with letters of credit or other similar security satisfactory to the city for the purpose of guaranteeing the bonds issued for their LID. (Ord. 1756 § 3, 1990).

3.16.040 Basis of assessments – Limiting improvements.

No improvement shall be paid for, in whole or in part, by local assessment where the estimated cost of such improvement, if such cost is all to be assessed to the property in the district, or that portion of the estimated cost to be assessed, if a portion only of that said total cost is to be assessed, when added to all other outstanding and unpaid local improvement assessments against the property included in the district, excluding penalties and interest, shall exceed the actual value of the real property, exclusive of improvements thereon, within the district according to the valuation last placed upon it for the purposes of general taxation; provided, that when a local improvement is petitioned for by the owners of 75 percent of the area of the property within the district, and the petition requests that such limitation be exceeded, the city council may proceed with the improvement in the usual manner if the property owners so petitioning, or any of them, or any person in their behalf, shall deposit with the city a sum in cash equal to the amount that estimated cost of the improvement shall exceed the limitation herein before in this section provided. The sum so deposited shall be applied and credited on the assessment roll for collection; provided, further, that the city council may, by unanimous vote, order the construction of sanitary sewers and necessary accessories for the disposal of sewage, or for the construction of any sanitary fill, or for the filling of any street to the established grade over any tide flats or tidelands, in the manner provided by law, where in its judgment the same are necessary for public health, and may assess a part or the whole of the cost thereof to the property benefited, without regard to the foregoing limitation; provided, further, that no assessment for diking, draining, sanitary fill or for filling any street to the established grade over any tide flats or tidelands or for storm or sanitary sewers or water mains shall be included in any computation of outstanding assessments under the provisions of this section.

Before ordering any improvement hereunder the city council shall require and receive a report from the proper board, officer or authority designated by charter or ordinance, certifying in detail the local improvement assessments outstanding and unpaid against the property in the proposed district together with the aggregate of the actual value of the real property in the district, exclusive of improvement thereon, according to the valuation last placed upon it for the purpose of general taxation. In the absence of fraud or gross mistake, such certificate shall be final and conclusive. In computing the valuation of property in the district any non assessable railroad operating property or property owned by the United States or the state or a county, city, town, school district or other public corporation, shall be valued at the same rate as assessed property similarly situated. (Ord. 253 § 4, 1927).

3.16.050 Degree of claim by holder of bonds, warrants.

Neither the holder nor the owner of any bond or warrant issued under the provisions of RCW 35.45.070 shall have any claim therefor against the city by which the same is issued, except for payment from the special assessment made for the improvement for which said bond or warrant was issued, and except as against the local improvement guaranty fund occurring in the lawful operation thereof by the city. The remedy of the holder or owner of a bond, or warrant in case of nonpayment, shall be confined to the enforcement of the assessment and to the guaranty fund. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond issued and guaranteeing hereunder, and the printing, writing or engraving shall be deemed sufficient compliance with the requirements of RCW 35.45.030. (Ord. 253 § 5, 1927).

Chapter 3.18

GENERAL CUMULATIVE RESERVE FUND

Sections:

3.18.010 Created.
3.18.020 Source of funds.
3.18.030 Expenditures.

3.18.010 Created.

There is created a general cumulative reserve fund for the purpose of buying supplies, materials or equipment, and the construction, alteration or repair of any public building or work, and the making of any public improvement, and for the purpose of creating a revenue stabilization fund for future operations. (Ord. 1307 § 1, 1983).

3.18.020 Source of funds.

Deposits shall be made to the fund from time to time as directed by ordinance of the city council, and as may be provided for in the annual budget. (Ord. 1307 § 1, 1983).

3.18.030 Expenditures.

Moneys in the fund shall be accumulated from year to year, and may be expended from time to time as directed by ordinance of the city council for the purposes specified in MMC 3.18.010. (Ord. 1307 § 1, 1983).

Chapter 3.20

SURFACE WATER UTILITY FUND

Sections:

3.20.010 Fund created.
3.20.020 Source of deposits.
3.20.030 Expenditures.

3.20.010 Fund created.

There is created and established a fund to be designated the surface water utility fund. (Ord. 1815, 1990).

3.20.020 Source of deposits.

(1) All drainage basin assessments collected by the city pursuant to Chapter 14.18 MMC shall be deposited in the surface water utility fund.

(2) All surface water utility service charges collected by Snohomish County pursuant to Chapter 14.19 MMC and disbursed to the city shall be deposited in the surface water utility fund. (Ord. 1815, 1990).

3.20.030 Expenditures.

The surface water utility fund shall be used exclusively in accordance with Chapter 36.89 RCW for the purpose of paying all or any part of the cost and expense of maintaining and operating stormwater control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose. (Ord. 1815, 1990).

Chapter 3.30

UTILITY CONSTRUCTION FUND[1]

Sections:
3.30.010 Created.
3.30.020 Deposits.
3.30.030 Money placement.
3.30.040 Use of revenue bond income.

3.30.010 Created.

The water distribution reserve fund created by Ordinance 538, the sewage collection reserve fund created by Ordinance 537 and the water and sewer construction fund are combined into a utility construction fund the income of which shall be used for extensions and betterments to the water and sewer systems. (Ord. 664 § 1, 1969).

3.30.020 Deposits.

All contributions for the following shall be deposited in this fund:

(1) Connection charges other than charges for installation of service connections, established to recover a portion of the costs of sewers and water mains constructed by the city to which no contribution was made by the benefited property;

(2) Construction charges, paid in advance of construction for the purpose of financing construction of sewers and water mains by the city, including charges for temporary connections;

(3) Monthly construction charges for the purpose of repaying the cost of sewers and water mains constructed by the city under the split rate method of financing. (Ord. 664 § 2, 1969).

3.30.030 Money placement.

Moneys shall be placed in this fund from time to time as directed by ordinance of the city council, and as may be provided for in the annual budget. (Ord. 664 § 3, 1969).

3.30.040 Use of revenue bond income.

The income from the sale of revenue bonds for extensions and betterments of the water and sewer system shall also be placed in this fund, but such funds shall be earmarked and be used only for the purpose provided for in the various bond ordinances. (Ord. 664 § 4, 1969).

1. Prior legislation: Ords. 537 and 538.

Chapter 3.32

CURRENT EXPENSE FUND

Sections:
3.32.010 Created.
3.32.020 Source of moneys.
3.32.030 Transfer of moneys to fund.

3.32.010 Created.

The fund for the general municipal property tax is hereby created and established, to be known as the “current expense fund.” (Ord. 208 § 1, 1919).

3.32.020 Source of moneys.

All moneys collected from the taxes levied for the payment of current expenses shall be credited and applied by the treasurer to the current expense fund. (Ord. 208 § 2, 1919).

3.32.030 Transfer of moneys to fund.

All moneys now in the hands, or hereafter to come into the hands, of the treasurer to the credit of what is now called and known as the general fund, in excess of the amount necessary to pay any and all warrants outstanding against the fund, shall be transferred and applied to the credit of the current expense fund. (Ord. 208 § 3, 1919).

Chapter 3.40

COMBINED WATER AND SEWER SYSTEM REVENUE FUND

Sections:

3.40.010 Source of moneys.
3.40.020 Payment of salaries and wages.
3.40.030 Betterment expenses to come from fund.

3.40.010 Source of moneys.

All rates, fees and charges made for services rendered and all fines and assessments levied by the combined water and sewer system of the city of Marysville shall be paid into a fund entitled the "combined water and sewer system revenue fund." Any other income whatsoever belonging to the combined water and sewer system shall be paid into this same revenue fund. (Ord. 476 § 4, 1961).

3.40.020 Payment of salaries and wages.

The salaries and/or wages of all personnel working for the combined water and sewer system shall be paid from the combined water and sewer system revenue fund. (Ord. 476 § 5, 1961).

3.40.030 Betterment expenses to come from fund.

All expenses whatsoever having to do with the operation, extension or betterment of the combined water and sewer system of the city of Marysville shall be paid for from the combined water and sewer system revenue fund. (Ord. 476 § 6, 1961).

Chapter 3.49

PAYROLL FUND

Sections:

3.49.010 Payroll fund established.

3.49.010 Payroll fund established.

There is created and established a fund to be designated as "payroll fund." Money shall be placed in the fund from time to time through transfers from other city funds containing payroll appropriations in the annual budget and amendments thereto. Expenditures from the fund shall be made by the issuance of bank checks or warrants. Bank checks shall be drawn on the bank which is designated as the official city depository. Two signatures shall be required on all bank checks or warrants drawn against the payroll fund in accordance with RCW 35A.12.170, one being the mayor and one being the clerk. (Ord. 1295 § 1, 1983; Ord. 918 § 1, 1976).

Chapter 3.50

CLAIMS FUND

Sections:

3.50.010 Claims fund established.
3.50.020 Payment of claims and warrants.

3.50.010 Claims fund established.

There is created and established a fund to be designated as "claims fund." Money shall be placed in the fund from time to time through transfers from other city funds containing appropriations in the annual budget and amendments thereto to meet expenditures relating to approved claims. Expenditures from the fund shall be made by the issuance of bank checks or warrants. Bank checks shall be drawn on the bank which is designated as the official city depository. Two signatures shall be required on all bank checks or warrants drawn against the claims fund in accordance with RCW 35A.12.170, one being the mayor and one being the clerk. (Ord. 1295 § 2, 1983; Ord. 918 § 2, 1976).

3.50.020 Payment of claims and warrants.

In order to expedite the payment of claims and warrants, the city may issue checks or warrants in advance of city council approval, subject to the following conditions being met prior to payment:

(1) Each officer or employee designated to sign the checks or warrants shall be required to furnish an official bond for the faithful discharge of his or her duties in an amount not less than $50,000.

(2) The city council shall provide for its review of the documentation supporting claims paid and for its approval of all checks or warrants issued in payment of claims at a regularly scheduled public meeting within one month of issuance.

(3) In the event the city council shall disapprove any claim, the director of finance, mayor and city clerk shall jointly cause the disapproved claims to be recognized as receivables of the city and shall pursue collection diligently until said disapproved amounts are collected.

The following kinds or amounts of claims shall not be paid before the city council has reviewed and approved the checks or warrants in payment of those claims:

(a) Any claim which would require a budget amendment.

(b) Any claim in excess of an amount authorized for payment of matters pursuant to contract.

(c) Any claim or payment which is not in accordance with the city's policies for procurement of goods and/or services. (Ord. 2229 § 1, 1999).

Chapter 3.51

PETTY CASH FUND[1]

Sections:

3.51.010 Petty cash fund established.
3.51.020 Petty cash fund distribution.
3.51.030 Petty cash fund custodians.

3.51.010 Petty cash fund established.

There is created and established a change and imprest fund within the current expense fund, to be designated as the "petty cash fund." Three thousand two hundred seventy-five dollars is authorized for the petty cash fund. Expenditures from the fund may be made by the petty cash fund custodians for purposes approved and authorized by the city council. All such expenditures shall be reimbursed in like amount to the fund. (Ord. 2369 § 1, 2001; Ord. 2262 § 1, 1999; Ord. 1951 § 1, 1993; Ord. 1936 § 1, 1993; Ord. 1687 § 1, 1989).

3.51.020 Petty cash fund distribution.

The petty cash fund herein established shall be distributed as follows:

(1) Three hundred dollars shall be used by the city's municipal court as a change fund;

(2) Two hundred dollars shall be used by the city's park and recreation department, $100.00 as a change fund and $100.00 as a petty cash fund;

(3) Six hundred dollars shall be used by the city's finance department as a change fund;

(4) Two hundred fifty dollars shall be used by the city's finance department as a petty cash fund;

(5) Five hundred fifty dollars shall be used by the city's police department as two $50.00 change funds, one $300.00 change fund and a $150.00 petty cash fund;

(6) Twenty-five dollars shall be used by the city's library as a change fund;

(7) Two hundred fifty dollars shall be used by the city's public works department, $200.00 as a petty cash fund and $50.00 as a change fund;

(8) One hundred dollars shall be used by the city's planning department, $50.00 as a petty cash fund and $50.00 as a change fund;

(9) One hundred fifty dollars shall be used by the Ken Baxter Senior/Community Center, $100.00 as a change fund and $50.00 as a petty cash fund;

(10) One thousand eight hundred dollars shall be used by the Cedarcrest Golf Course, $1,600 as a change fund and $200.00 as a petty cash fund. (Ord. 2517 § 1, 2004; Ord. 2398 §§ 1, 2, 2001; Ord.

1. Prior legislation: Ords. 918 and 1321.

2369 § 2, 2001; Ord. 2262 § 2, 1999; Ord. 2179 § 1, 1998; Ord. 1998 § 1, 1994; Ord. 1951 § 2, 1993; Ord. 1936 § 2, 1993; Ord. 1851-A § 1, 1991; Ord. 1824 § 1, 1991; Ord. 1687 § 2, 1989).

3.51.030 Petty cash fund custodians.

The custodians of the petty cash fund herein established shall be as follows:

(1) The city's court administrator is designated as the custodian of the municipal court change fund.

(2) The city's park and recreation director is designated as the custodian of the park and recreation change fund and the Ken Baxter Senior/Community Center change fund and petty cash fund.

(3) The finance director is designated as the custodian of the finance department change and petty cash fund.

(4) The police chief is designated as the custodian of the police department change and petty cash fund.

(5) The librarian is designated as the custodian of the library change fund.

(6) The public works director is designated as the custodian of the public works petty cash fund.

(7) The city planner is designated as the custodian of the planning department petty cash fund;

(8) The city's park and recreation director is designated as the custodian of the Cedarcrest Golf Course change and petty cash fund. (Ord. 2369 § 3, 2001; Ord. 2179 § 2, 1998; Ord. 1951 § 3, 1993; Ord. 1936 § 3, 1993; Ord. 1851-A § 2, 1991; Ord. 1824 § 2, 1991; Ord. 1687 § 3, 1989).

Chapter 3.52

CURRENT USE ASSESSMENT ON LANDS

Sections:

3.52.010 Application fee.

3.52.010 Application fee.

On all applications under the Open Space Taxation Act for current use assessments on lands within the city, the application fee shall be $50.00, plus $1.00 per acre or any part thereof as specified by the applicant in his or her application. (Ord. 721 § 1, 1970).

Chapter 3.53

TRAVEL ADVANCE FUND

Sections:

3.53.010 Travel advance fund established.
3.53.020 Travel advances.

3.53.010 Travel advance fund established.

There is created and established a revolving checking account within the current expense fund, to be designated as the "travel advance fund." Ten thousand dollars is authorized for the travel advance fund. The finance director will be custodian of the travel advance fund. Expenditures from the fund will be to elected officials, managers and employees for cash advances for travel on official city business approved by the department head and the city's auditing officer. All such expenditures shall be reimbursed in like amount to the fund. (Ord. 2318 § 1, 2000).

3.53.020 Travel advances.

Travel advances shall be requested by submitting a detailed travel budget, on a form approved by the finance director to the travel advance custodian no later than four business days prior to the departure on the approved travel. The travel advance custodian will write a check in the name of the employee or official requesting the travel advance. Upon return from the official travel, the employee or official receiving the travel advance will submit all detailed receipts with a travel voucher and any unused funds to the travel advance fund custodian. The travel advance custodian will write a check to the employee or official if the actual travel costs exceed the budgeted travel advance for the amount over the original budget if the unbudgeted travel costs are approved by the department head and the city's auditing officer. Subject to the following restrictions:

(1) The elected official or employee issued a travel advance shall immediately sign a receipt for the same, which statement shall also include acknowledgement that the elected official or employee understands the limitations put on the use of the travel advance and that any misuse thereof shall constitute a misuse of public funds.

(2) The travel advance may be used solely for expenses incident to authorized, appropriated, official travel on city business.

(3) The elected official or employee shall obtain a receipt for each purchase made with the travel advance, and shall promptly submit the same, together with a fully itemized expense voucher, to the city finance department not more than four business days after returning from the travel on official city business. Any travel advance expenditures which are not properly identified on the expense voucher, or which are disallowed by the auditing authority, shall be immediately reimbursed to the city by the official or employee in the form of cash or a salary deduction. If, for any reason, a disallowed charge is not repaid within 10 business days of the return from the travel on official city business, the city shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to the amount of the disallowed expenditure, plus interest at the same rate as earned by participants in the State Treasurer's Local Government Investment Pool plus three percentage points. (Ord. 2318 § 1, 2000).

Chapter 3.60

LOCAL IMPROVEMENTS, SPECIAL ASSESSMENTS AND BONDS

Sections:

3.60.010 Local improvements.
3.60.020 Improvements initiated by petition or resolution – Procedure.
3.60.030 Establishing local improvement districts.
3.60.040 Local improvements by contract or city.
3.60.050 When costs 20 percent or greater – Hearing – Amendments to preliminary assessment roll.
3.60.060 Assessment.
3.60.065 Additional assessment.
3.60.070 Bonds – Issuance.
3.60.080 Bonds – Selling – Proceeds.
3.60.090 Warrants.
3.60.100 Assessment collection – Notice.
3.60.110 Installment payments.
3.60.115 Time of payment – Interest – Penalties.
3.60.120 Bond installment plan – Treasurer's report – Bond issuance.
3.60.130 Bond – Form.
3.60.140 Segregation of assessments.
3.60.150 Foreclosure of delinquent assessments.
3.60.160 Notice to property owner.
3.60.170 Acceleration of installments – Attorney's fees.
3.60.180 Notice of right of redemption.
3.60.190 Form of notice of redemption right.
3.60.200 Service of notice of redemption right.
3.60.210 Failure to provide notice – Effect.

3.60.010 Local improvements.

Whenever the public interest or convenience may require, the city council of the city of Marysville may order a local improvement to be constructed and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof. All such projects, and the financing of the same, shall comply with Chapters 35.43 through 35.56 RCW and the provisions of this chapter. All references herein to local improvement districts shall also be construed to apply to utility local improvement districts. (Ord. 1275 § 1, 1983; Ord. 818 § 1, 1974).

3.60.020 Improvements initiated by petition or resolution – Procedure.

(1) Any such improvement may be initiated either upon petition or by resolution therefor, but such improvement may be ordered only by ordinance.

(2) Petition.

(a) A local improvement may be initiated upon a petition signed by the owners of property aggregating a majority of the area within a proposed district. The petition must briefly describe: (i) the nature of the proposed improvement, (ii) the territorial extent of the proposed improvement, and (iii) what proportion of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the city clerk.

On request of the petitioners, the city administrator may direct city employees to assist in the preparation of the petition, the formation of a proposed boundary description, and an explanation of the proposal to the affected public, and city funds may be advanced for such purposes in a sum not to exceed $1,000 for any single petition.

Upon the filing of a petition, the petitioners shall become personally responsible for any and all costs and expenses incurred thereafter by the city in connection with the formation of a local improvement district, including but not limited to engineering costs, legal fees, and costs of mailing and publishing notices of public hearings. The city administrator shall estimate the total of such costs and expenses, and the petitioners shall be required to deposit or assign funds in such amount for the benefit of the city to be held in trust by the city treasurer until such time as a local improvement district is created by ordinance of the city council. Upon the creation of such a district, said funds shall be returned to the petitioners, and the costs and expenses incurred by the city, including those advanced prior to the filing of the petition, shall be reimbursed from district assessments. If for any reason such a district is not formed, said trust funds shall be applied by the city treasurer as reimbursement for costs and expenses incurred by the city in connection with processing the petition subsequent to its filing.

(b) Such petition shall first be presented to the council, which may order the city administrator or other city official to examine such petition, determine the sufficiency thereof and ascertain if the facts therein stated are true and shall cause an

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estimate of the cost and expense of such improvement to be made and shall transmit the same to the city council, together with all papers and information in his possession regarding the same, together with his recommendation thereon and a description of the boundaries of the district and a statement of the proportionate amount of the cost and expense of such improvement which shall be borne by property within the proposed assessment district, and a statement of the actual valuation of the real estate, including 25 percent of the actual valuation of the improvements in such proposed district according to the valuation last placed upon it for purposes of general taxation, together with all other outstanding and unpaid local improvement assessments against the property included in the district, excluding penalties and interest; and in case the petition is sufficient, shall also submit a diagram showing thereon the lots, tracts or parcels of land and other property which will be especially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of property; provided, that no such diagram shall be required where such estimates are on file in the office of the city engineer or other designated city office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

(c) If the preliminary desire of the city council is to accept the petition, the council shall set a hearing by resolution setting the date, declaring its intention to accept the petition and to order such improvement, setting forth the nature and territorial extent thereof, notifying all persons who may desire to object thereto to appear and present such objections at a meeting of the council at the time specified in such resolution, and further notifying all persons who are especially benefited of the preliminary assessments as hereinafter provided. This resolution shall be published in at least two consecutive issues of the official newspaper of the city, or if there is no official newspaper, a newspaper of general circulation within the city, and the date of hearing thereon shall be at least 15 days after the date of first publication of the resolution. The city administrator or such other officer shall submit to the city council at or prior to the date fixed for such hearing all the necessary relevant information.

(d) Notice of the hearing upon the resolution shall be given by mail at least 15 days prior to the date fixed for the hearing to the owners or reputed owners of all lots, tracts and parcels of land or other property to be especially benefited by the proposed improvement, as shown on the rolls of the county treasurer, directed to the addresses thereon shown. The notice shall set forth the nature of the proposed improvement, the estimated cost and the estimated benefit to the particular lot, tract or parcel.

(3) Resolution.

(a) The city council may initiate such improvement directly by resolution declaring its intention to order such improvement and setting forth the nature and territorial extent thereof and notifying all persons who may desire to object thereto to appear and present such objections at a meeting of the city council, or a committee thereof, at the time specified in such resolution. Such resolution shall be published in at least two consecutive issues of the official newspaper of the city, or, if there is no official newspaper, in a newspaper of general circulation within the city, and the date of hearing thereon shall be at least 15 days after the date of the first publication of the resolution. The city administrator shall submit to the city council, at or prior to the date fixed for such hearing, the same data and information required to be submitted in the case of a petition.

(b) Notice of the hearing upon such resolution shall be given by mail at least 15 days before the day fixed for hearing to the owners or reputed owners of all lots, tracts and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the county treasurer, directed to the address thereon shown. The notice shall set forth the nature of the proposed improvement, the estimated costs and the estimated benefits of the particular lot, tract or parcel.

(4) After a hearing on the petition, the city council may, by ordinance, authorize the making of any such improvement, and in case of an improvement initiated by resolution of the city council, such ordinance may be passed on at any time after the date of the hearing specified in the resolution. (Ord. 1275 § 2, 1983; Ord. 906, 1976; Ord. 818 § 2, 1974).

3.60.030 Establishing local improvement districts.

Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefited shall establish a local improvement district to be known as "Local Improvement District No. ___," which shall embrace as nearly as practicable all the property specially benefited by the improvement.

Unless otherwise provided in the ordinance ordering the improvement, the improvement district shall include all the property between the ter-

mini of the improvement abutting upon, adjacent, vicinal or proximate to the street, avenue, lane, alley, boulevard, park drive, parkway, public place or square proposed to be improved to a distance of 90 feet back from the marginal lines thereof or to the centerline of the blocks facing or abutting thereon, whichever is greater (in the case of unplatted property, the distance back shall be the same as in the platted property immediately adjacent thereto); provided, that if the local improvement is such that the special benefits resulting therefrom extend beyond the boundaries as above set forth, the council may create an enlarged district to include as nearly as practicable all the property to be specially benefited by the improvement; the petition or resolution for an enlarged district and all proceedings pursuant thereto shall conform as nearly as is practicable to the provisions relating to local improvement districts generally, except that the petition or resolution must describe it as an enlarged district and state what proportion of the amount to be charged to the property specially benefited shall be charged to the property lying between the termini of the proposed improvement and extending back from the marginal lines thereof, to the middle of the block (or 90 feet back) on each side thereof, and what proportion thereof to the remainder of the enlarged district; provided, further, that whenever the nature of the improvement is such that the special benefits conferred on the property are not fairly reflected by the use of the aforesaid termini and zone method, the ordinance ordering the improvement may provide that the assessment shall be made against the property of the district in accordance with the special benefits it will derive from the improvement without regard to the zone and termini method. (Ord. 818 § 3, 1974).

3.60.040 Local improvements by contract or city.

All local improvements, funds for the making of which are derived in whole or in part from assessments upon property specially benefited, shall be made either by the city itself, or by contract upon competitive bids in the manner provided by law. The city council shall determine whether such local improvement shall be done by contract or the city itself. (Ord. 818 § 4, 1974).

3.60.050 When costs 20 percent or greater – Hearing – Amendments to preliminary assessment roll.

In the event that the cost of constructing a local improvement, as determined from competitive bids or from the estimate of the city engineer, is 20 percent or greater than the total aggregate of the preliminary assessment roll, then the council shall hold another public hearing as hereinafter provided prior to letting of the contract or authorizing the work. Notice of the hearing shall comply with RCW 35.43.140. Additionally, said notice shall set forth the new estimated costs and estimated benefits of each particular lot, tract or parcel, and shall state that the purpose of the hearing is to reconsider the previously-enacted ordinance establishing the local improvement district and to determine whether said local improvement district should be reaffirmed or dissolved. The notice shall also provide that a new 30-day protest period shall commence running on the date of the hearing and that the authority of the city to proceed with the local improvement district may be restrained by a 60 percent protest as provided in RCW 35.43.180. (Ord. 1654, 1988; Ord. 818 § 5, 1974).

3.60.060 Assessment.

The cost and expense of any such improvement, or such portion thereof as the city council may determine to be assessed, shall be distributed and assessed against all the property included in such local improvement district, in accordance with the special benefits conferred thereon, and in the manner provided by law. (Ord. 818 § 6, 1974).

3.60.065 Additional assessment.

The aggregate of the assessment roll for each local improvement district may be increased by a surcharge in an amount up to 10 percent of the same, and said surcharge, upon collection, shall be deposited in the local improvement guaranty fund. Any property owner who pays its LID assessment in full prior to the issuance by the city of LID bonds, shall have its assessment discounted by the surcharge applicable thereto.

As an alternative to an assessment surcharge, property owners within a local improvement district may, at their initiative, provide the city with letters of credit or other similar security satisfactory to the city for the purpose of guaranteeing the bonds issued for their LID. (Ord. 1756 § 4, 1990).

3.60.070 Bonds – Issuance.

The city council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to 20 days after the 30 days allowed for the payment of

assessments without penalty or interest. (Ord. 818 § 7, 1974).

3.60.080 Bonds – Selling – Proceeds.

Local improvement bonds may be issued to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein, and at no less than par and accrued interest. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof.

The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement. (Ord. 818 § 8, 1974).

3.60.090 Warrants.

The city council may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at a rate or rates as authorized by ordinance and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

All warrants against any local improvement fund sold by the city or issued to a contractor and by him sold or hypothecated for a valuable consideration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien or claim of any surety upon the bond or bonds given the city by or for the contractor to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work. (Ord. 1227, 1982; Ord. 818 § 9, 1974).

3.60.100 Assessment collection – Notice.

All assessments for local improvements shall be collected by the city treasurer and shall be kept in a separate fund to be known as "Local Improvement Fund, District No. ____" and shall be used for no other purpose than the redemption of warrants drawn upon the bonds issued against the fund to provide payment for the cost and expense of the improvement.

As soon as the assessment roll has been placed in the hands of the city treasurer for collection, he shall publish a notice in the official newspaper of the city for 10 consecutive daily or two consecutive weekly issues, or if there is no official newspaper, in a newspaper of general circulation within the city, that the roll is in his hands for collection and that any assessment may be paid within 30 days from the date of the first publication of the notice without penalty, interest or costs. (Ord. 818 § 10, 1974).

3.60.110 Installment payments.

In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract and parcel of land or other property, or any portion thereof, may be paid during the 30-day period allowed for the assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual principal installments or in equal annual installments of principal and interest. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvement are to run. The estimated interest rate may be stated in the ordinance confirming the assessment roll. Where payment is required in equal annual principal installments, interest on the whole amount unpaid at the rate fixed by the ordinance authorizing the issuance and sale of the bonds shall be due on the due date of the first installment of principal and each year thereafter on the due date of each installment of principal; provided, that if a bond issue is payable on or before 22 years after the date of issue, the city council may provide by ordinance that all assessments and portions of assessments unpaid after the 30-day period allowed for payment of assessments without penalty or interest may be paid in 10 equal installments beginning with the eleventh year and ending with the twentieth year from the expiration of the 30-day period, together with interest on the unpaid installments at the rate fixed by such ordinance, and that in each year after the 30-day period, to and including the tenth year thereafter, one installment of interest on the principal sum of the assessment at the rate so fixed shall be paid and collected, and that beginning with the eleventh year after the 30-day period, one installment of the principal, together with the interest due thereon, and on all installments thereafter to become due, shall be paid and collected. (Ord. 1308 § 1, 1983; Ord. 818 § 11, 1974).

3.60.115 Time of payment – Interest – Penalties.

The city council, by ordinance, shall prescribe the period of time over which local improvement assessments or installments thereof shall be paid. That ordinance shall also provide for the payment and collection of interest on the unpaid balance of

the assessments at a rate to be fixed by the city council. Any installment or interest not paid on or before the due date for the same shall be considered delinquent, and shall be increased by a penalty charge of eight percent. (Ord. 1308 § 2, 1983).

3.60.120 Bond installment plan – Treasurer's report – Bond issuance.

In case the improvement is made on the bond installment plan, the city treasurer shall, at the expiration of 30 days after the first publication of the notice to pay assessment, report to the city council the amount collected by him upon the roll and shall specify in the report the amount remaining unpaid upon the roll, and the city council may then, or at a subsequent meeting, by ordinance, direct the mayor and the city clerk to issue the bonds on the local improvement district established by the ordinance ordering the improvement in an amount equal to the amount remaining unpaid on the assessment. The ordinance shall specify the denomination of the bonds which, except for bond numbered "one," shall be in multiples of $100.00 each. (Ord. 818 § 12, 1974).

3.60.130 Bond – Form.

All bonds, unless otherwise specially ordered by the council, issued in pursuance of the provisions of this chapter, may be in substantially the following form:

No. _____ $_____

UNITED STATES OF AMERICA
STATE OF WASHINGTON
LOCAL IMPROVEMENT BOND
CITY OF MARYSVILLE
LOCAL IMPROVEMENT
DISTRICT NO. ____

N.B. This bond is issued by virtue of the provisions of RCW 35.45.010 et seq., Sec. 35.45.070 of which reads as follows:

"Neither the holder nor the owner of any bond or warrant issued under the provisions of this act shall have any claim therefor against the city or town by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued, and except as against the local improvement guaranty fund of such city or town, and the city or town shall not be liable to any holder or owner of such bond or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the city or town. The remedy of the holder or owner of a bond or warrant in case of nonpayment, shall be confined to the enforcement of the assessment and to the guaranty fund."

The City of Marysville, a municipal corporation of the State of Washington, hereby promises to pay to _____ or bearer _____ Dollars ($_____), in lawful money of the United States, with interest thereon at the rate of ___ percent per annum, payable annually out of the fund established by Ordinance No. ____ of said City, and known as "Local Improvement Fund, District No. ____," and not otherwise, except from the guaranty fund, as herein provided. Both principal of and interest on this bond are payable at the office of the City Treasurer of said City.

A coupon is hereto attached for each installment of interest to accrue hereon and said interest shall be paid only on presentation and surrender of such coupon to the City Treasurer.

This bond is payable on the _____ day of _____, 19___, but is subject to call by the City Treasurer of said City whenever there shall be sufficient money in said Local Improvement Fund to pay the same and all unpaid bonds of the series of which the bond is one, which are prior to this bond in numerical order, over and above sufficient for the payment of interest on all unpaid bonds of said series. The call for payment of this bond, or of any bond of the series of which this is one, shall be made by the City Treasurer by publishing the same once in the official newspaper, or, if there is no official newspaper, in a newspaper of general circulation within the City, and when such call is made for the payment of this bond it will be paid on the day the next interest coupon thereon shall become due after said call and upon said day interest upon this bond shall cease and any remaining coupons shall be void.

The City Council of said City as the agent of said Local Improvement District No. ____, established by Ordinance No. ____, has caused this bond to be issued in the name of said City as the bond of said Local Improvement District, the bond or the proceeds thereof to be applied in part pay-

ment of so much of the cost and expense of the improvement of _____, under said Ordinance No. ___, as is levied and assessed against the property included in said Local Improvement District No. ___ and benefited by said improvement and the said Local Improvement Fund has been established by ordinance for said purpose; and the holder or holders of this bond shall look only to said fund and to the Local Improvement Guaranty Fund of the City of Marysville for the payment of either the principal of or interest on this bond.

This bond is one of a series of ____ bonds aggregating in all the principal sum of ____ Dollars ($___), all of which bonds are subject to the same terms and conditions as herein expressed.

IN WITNESS WHEREOF, the City of Marysville has caused these presents to be signed by its Mayor and attested by its City Clerk and sealed with its corporate seal this 8 day of July, 1974.

CITY OF MARYSVILLE,
WASHINGTON
By _____
MAYOR

ATTEST: _____
CITY CLERK

There shall be attached to each bond such a number of coupons as shall be required to represent the interest thereon payable either annually or semiannually, as the case may be, for the term of said bonds, which coupons shall be substantially in the following form:

On the ____ day of _____, 19___, the CITY OF MARYSVILLE, STATE OF WASHINGTON, promises to pay to the bearer at the office of the City Treasurer _____ Dollars ($____), being (six) (twelve) months interest due that day on Bond No. ____ of the bonds of Local Improvement District No. ___, and not otherwise, provided that this coupon is subject to all the terms and conditions contained in and the bond to which it is annexed, and if said bond shall be called for payments before maturity hereof, then this coupon shall be void.

CITY OF MARYSVILLE,
WASHINGTON
By _____
MAYOR

ATTEST: _____
CITY CLERK

The city treasurer shall keep in his office a register of all such bonds in which he shall enter the local improvement district for which the same are issued and the date, amount and number of each bond and the terms of payment. (Ord. 818 § 13, 1974).

3.60.140 Segregation of assessments.

Whenever any land against which there has been levied a special assessment by the city of Marysville has been sold in part or subdivided, the city council shall have the power to order a segregation of such assessment pursuant to RCW 35.44.410. Such segregations shall be conditioned upon the following:

(1) A finding by the city council that the segregation will not jeopardize the security of the city's assessment lien;

(2) Payment by the applicant of the applicable fee and costs as set forth in MMC 14.07.005 for every assessment unit created by the segregation. (Ord. 2106 § 4, 1996; Ord. 1016, 1978).

3.60.150 Foreclosure of delinquent assessments.

If, on the first day of January, in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the city attorney is authorized to commence foreclosure proceedings on the delinquent assessment or delinquent installments by an appropriate action on behalf of the city in Snohomish County Superior Court. The foreclosure proceeding shall be in accordance with the provisions of Chapter 35.50 RCW, as now exists or as may hereafter be amended. Such foreclosure proceedings shall be commenced on or before June 1st of each year. (Ord. 1275 § 3, 1983).

3.60.160 Notice to property owner.

The city clerk shall send by certified mail to each person whose name appears on either the assessment roll or the county tax rolls as owner of the property charged with any delinquent assessment or installment, at each address listed on said assessment roll or tax roll, a notice at least 30 days

before commencement of any action to foreclose a delinquent assessment or installment. The notice shall state the amount due on each separate lot, tract or parcel of land, and the date after which the foreclosure proceedings will commence. (Ord. 1275 § 3, 1983).

3.60.170 Acceleration of installments – Attorney's fees.

In any action brought for the foreclosure of a delinquent assessment or installment, future installments not otherwise due and payable shall thereupon be accelerated, and the entire balance of the assessment with interest, penalty and costs shall become due and payable, and the collection thereof shall be enforced by foreclosure as set forth in this chapter; provided, however, that in the case of such foreclosure, there shall be added to the cost and expense as provided by Chapter 3.50 RCW such reasonable attorney's fees as the court may adjudge to be equitable, and the amount thereof apportioned to each delinquent assessment or installment on the assessment roll. (Ord. 1275 § 3, 1983).

3.60.180 Notice of right of redemption.

Within 60 days of the sale of any property as a result of an action by the city to foreclose a local assessment lien, the purchaser of the property shall be given notice, in the form and manner provided hereinafter to the record owner or owners of the property as identified by a title report current as of the date of filing of the foreclosure action. Said notice shall again be given no less than 60 days prior to, nor more than 120 days prior to, the date of expiration of the period of redemption as provided by law. (Ord. 1275 § 3, 1983).

3.60.190 Form of notice of redemption right.

The notice of redemption right shall be substantially in accord with the following form, with all blanks properly filled in:

NOTICE OF REDEMPTION RIGHT

That certain real property located at _____ (street address), being situated in Snohomish County, Washington, and legally described as follows:

was sold on the ___ day of _____, 19___ to _____, pursuant to court order to satisfy delinquent local improvement district assessment installments.

A title report shows that you are the record owner of the property. Please take notice that the sale of the property will become final and your right to redeem the property will be extinguished unless exercised prior to the expiration of two years from the date of the sale, to wit, on or before _____.

In order to redeem your property, you must take affirmative action in accord with Washington Statutes governing the right of redemption or these rights will be lost.

(Ord. 1275 § 3, 1983).

3.60.200 Service of notice of redemption right.

Service of the notice provided in this chapter shall be deemed adequate on the production of one of the following:

(1) An affidavit evidencing personal service in accord with the procedures for in-person service of process in superior courts in the state of Washington;

(2) A receipt signed by the record owner evidencing actual receipt of the notice by mail;

(3) An affidavit that after diligent search, which at a minimum shall include the use of a commercial locating service, the record owner cannot be located, and affirming that the notice has been mailed by certified mail, return receipt requested, to the last known address of the record owner as determined from review of the title report, the current telephone directory for the area of the owner's last known residence, and consultation with the United States Postal Service regarding any forwarding address left by the owner. (Ord. 1275 § 3, 1983).

3.60.210 Failure to provide notice – Effect.

Failure to provide the notice of redemption rights as provided in this chapter shall not affect the validity of the legal action which foreclosed the city's local assessment lien; provided, that no final deed or other evidence of title shall be issued to the purchaser until compliance with the provisions of this chapter regarding notice of redemption rights has been demonstrated. In the event of failure to give the final notice in a timely manner, the purchaser shall be deemed to have consented to an extension of the record owner's right to redeem which shall continue until 60 days have elapsed subsequent to fulfillment of the final notice requirements as set forth in this chapter, and the record owner shall be entitled to redeem until said time. (Ord. 1275 § 3, 1983).

Chapter 3.63

UTILITY RATE RELIEF FOR LOW-INCOME SENIOR CITIZENS AND DISABLED PERSONS

Sections:

3.63.010 Definitions.
3.63.020 Rate relief.
3.63.030 Eligibility for senior citizen low-income and/or disabled low-income rate.
3.63.040 Claim filing requirements.
3.63.050 False claim – Penalty.

3.63.010 Definitions.

(1) "Direct billing customer" means a person or household who is directly billed for and responsible for payment to the city for utility service charges.

(2) "Income" means "disposable income" as that term is defined in RCW 84.36.383.

(3) "Indirect billing customer" means a person or household, who is not directly billed for city utility service charges, but pays for the services indirectly to the landlord, maintenance association or other third party. (Ord. 2549 § 1, 2004).

3.63.020 Rate relief.

(1) There is granted to persons who meet the qualifications and requirements of MMC 3.63.030 and 3.63.040 relief from the city's water, sewer and solid waste service charges in the following circumstances:

(a) Direct Billing Customer. All billings by the city to direct billing customers who meet the qualifications and requirements of MMC 3.63.030 and 3.63.040 shall be reduced by 30 percent for sewer services, water services and the equivalent level of garbage service at one 36-gallon can removed weekly as prescribed by the city's water, sewerage and solid waste rate ordinances then in effect.

(b) Indirect Billing Customer. All billings paid by indirect billing customers to the landlord, maintenance association or other third party who meet the qualifications and requirements of MMC 3.63.030 and 3.63.040 may apply for the 30 percent rebate for sewer services, minimum water services as prescribed by the city's water and sewerage rate ordinances then in effect; provided, that such indirect billing customers may receive a one-time payment pursuant to the provision of MMC 3.63.040(1)(b).

(2) In determining the amount of relief granted under this section, the water service charge shall not include any consumption charges beyond the maximum allowable for the minimum water charge for indirect billing customers; nor shall it include solid waste rate charges beyond a single 36-gallon weekly service for directly billed customers. (Ord. 2549 § 1, 2004).

3.63.030 Eligibility for senior citizen low-income and/or disabled low-income rate.

The occupant of a single-family dwelling unit, duplex, multifamily complex or mobile home park shall be eligible for the rate reduction under the following conditions:

(1) The dwelling unit must be occupied by the person claiming eligibility as his or her principal place of residence.

(2) The person claiming the rate must be the head of the household for the dwelling unit in question.

(3) The person claiming eligibility for the senior citizen rate must qualify in one of the following categories:

(a) Low-Income Senior Citizen. "Low-income senior citizen" means a person who is 62 years of age or older and whose total income including that of his or her spouse or co-tenant does not exceed the amount specified in RCW 84.36.381(5)(b), as now or hereafter amended.

(b) Low-Income Disabled Citizen. "Low-income disabled citizen" means a person whose income, including that of his or her spouse or co-tenant, does not exceed the amount specified in RCW 70.164.020(4) and:

(i) A person qualifying for special parking privileges under RCW 46.16.381(1)(a) through (1)(f);

(ii) A blind person as defined in RCW 74.18.020; or

(iii) A disabled, handicapped or incapacitated person as defined under any other existing state or federal program. (Ord. 2549 § 1, 2004).

3.63.040 Claim filing requirements.

(1) All claims for relief requested pursuant to this chapter must be filed with the finance department of the city during the time periods as follows:

(a) Eligible direct billing customers who file a claim for a billing reduction at any time during the calendar year shall be eligible for a reduction in their billing effective as soon thereafter as their claim may be administratively reviewed, and approved and processed.

(b) Eligible indirect billing customer's claim for a billing reduction shall be made annually, and filed between January 2nd and February 28th of the year following the period for which the reduction is claimed.

(c) Claims shall be filed on forms prescribed and furnished by the finance department. Said forms shall require the claimant to certify his or her eligibility under this chapter. Upon being satisfied that a claim is in compliance with this chapter, the city treasurer shall issue a warrant payable to the claimant for the eligible reduction in the utility services as prescribed in this chapter.

(2) The finance department may publish rules and regulations to implement and administer this chapter. (Ord. 2579 § 1, 2005; Ord. 2549 § 1, 2004).

3.63.050 False claim – Penalty.

Upon determination by the city that any person has knowingly filed a false claim for utility service reduction, the claim shall be denied and such person, and all other persons residing in his or her dwelling unit, shall forfeit their eligibility for utility service discount. The city may pursue any lawful means of recovering the amounts underpaid by such person claiming a utility service reduction. (Ord. 2549 § 1, 2004).

Chapter 3.64

UTILITIES TAX

Sections:

3.64.010 Generally.
3.64.020 Telephone business.
3.64.030 Sale of gases.
3.64.040 Sale of electricity.
3.64.050 *Repealed.*
3.64.060 Tax rebate – Eligibility conditions.
3.64.070 Tax rebate – Claim procedure.
3.64.080 Tax rebate – False claim – Penalty.
3.64.090 Tax rebate – Effective date.
3.64.100 Applicability.
3.64.110 Administrative appeal for taxes assessed, due or to be paid after the effective date of MMC 3.64.110 through 3.64.150.
3.64.120 Administrative appeal for refund of any tax paid prior to the effective date of MMC 3.64.110 through 3.64.150.
3.64.130 Additional rules.
3.64.140 Notices.
3.64.150 Appeals to court.
3.64.160 Severability.
3.64.170 Taxpayer record keeping, inspection and audit of taxpayer records.
3.64.180 Penalty for delinquent payment.
3.64.190 Interest charge for delinquent taxes and penalties.

3.64.010 Generally.

Business or utility taxes in an amount specified in this chapter are levied and shall be collected against purveyors of utilities in the city of Marysville. (Ord. 882 § 1, 1975).

3.64.020 Telephone business.

(1) Upon any telephone business there is levied a tax equal to five percent of the total gross operating revenues, including revenues from intrastate toll, derived from the operation of such business within the city. The tax shall be paid monthly on or before the twentieth day of the following month. In computing the tax there shall be deducted from the revenues the following items:

(a) Charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed herein;

(b) The amount of uncollectible service charges actually sustained by the telephone company;

(c) Amounts derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the state of Washington or the United States.

(2) "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephone, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer-line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service.

(3) "Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made. (Ord. 1975 § 1, 1993; Ord. 1740 §§ 1, 2, 1989; Ord. 1754 § 1, 1990; Ord. 1214, 1981; Ord. 1209, 1981; Ord. 882 § 2, 1975).

3.64.030 Sale of gases.

Upon any business engaged in the sale of artificial, natural or mixed gases, there is levied a tax equal to five percent of the total gross monthly service charge billed to business and residence customers within the corporate limits of the city, exclusive of moneys collected by such business for reimbursement of such tax. The tax shall be paid monthly on or before the twentieth day of the following month. In computing the tax, there shall be deducted from the revenues the amount of any uncollectible service charges actually sustained by the taxpayer. (Ord. 1975 § 3, 1993; Ord. 1754 § 2, 1990; Ord. 1230, 1982; Ord. 882 § 3, 1975).

3.64.040 Sale of electricity.

Upon every business engaged in the sale of electricity, including a public utility district, there is levied a tax equal to five percent of the total gross monthly service charges billed to business and residence customers within the corporate limits of the city. The tax shall be payable monthly on or before the twentieth day of the following month. In computing the tax, there shall be deducted from the revenues the amount of any uncollectible service charges actually sustained by the taxpayer. (Ord. 1975 § 3, 1993; Ord. 1754 § 3, 1990; Ord. 1263, 1982; Ord. 882 § 4, 1975).

3.64.050 Tax revenues.

Repealed by Ord. 2439. (Ord. 882 § 5, 1975).

3.64.060 Tax rebate – Eligibility conditions.

The occupant of a dwelling unit in the city of Marysville shall be eligible for a 100 percent utility tax rebate under the following conditions:

(1) The dwelling unit must have been occupied by the person claiming the rebate as a principal place of residence through the term for which the rebate is claimed.

(2) The person claiming the rebate must be the head of the household for the dwelling unit in question.

(3) The utility account must be in the name of the person claiming the rebate.

(4) The utility accounts must have been paid in full by the person claiming the rebate throughout the period for which the claim is filed.

(5) No person may claim a rebate for more than one dwelling unit during the same period.

(6) The person claiming the rebate must have been qualified in one of the following categories throughout the period for which the rebate is claimed:

(a) Low-Income Senior Citizen. "Low-income senior citizen" means a person who is 62 years of age or older and whose total income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 84.36.381(5)(b), as now or hereafter amended.

(b) Low-Income Disabled Citizen. "Low-income disabled citizen" means:

(i) A person qualifying for special parking privileges under RCW 46.16.381(1)(a) through (f);

(ii) A blind person as defined in RCW 74.18.020; or

(iii) A disabled, handicapped or incapacitated person as defined under any other existing state or federal program and whose income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 70.164.020 (4). (Ord. 1787 § 1, 1990; Ord. 1634 §§ 1, 2, 1988; Ord. 1338 § 1, 1984; Ord. 1333 §§ 1, 2, 1984; Ord. 1108 § 1, 1980).

3.64.070 Tax rebate – Claim procedure.

(1) Claims for utility tax rebates shall be made annually, and filed between January 2nd and February 28th of the year following the period for which the rebate is claimed. Claims shall be filed on forms prescribed and furnished by the city clerk. Said forms shall require the claimant to certify his or her eligibility under this chapter. The claimant shall attach proof of all utility taxes which qualify for a rebate and which were paid by him or her during the preceding calendar year. Upon being satisfied that a claim is in compliance with this chapter, the city treasurer shall issue a warrant payable to the claimant for 100 percent of the utility taxes paid during the claim period.

(2) In the event that a person qualifying for a utility tax rebate under this chapter resides in a dwelling unit which is not issued individual billing statements from the utility companies, or in the event that a qualified claimant, for good cause, cannot produce proof of the exact amount of utility taxes paid during the claim period, the city administrator shall be authorized to estimate the amount of rebate owed, based upon utility taxes paid by other persons in similar circumstances. (Ord. 1108 § 2, 1980).

3.64.080 Tax rebate – False claim – Penalty.

Upon determination by the city administrator that any person has knowingly filed a false claim for a utility tax rebate, the claim shall be denied, and such person, and all other persons residing in his or her dwelling unit, shall forfeit their eligibility for utility tax rebates. (Ord. 1108 § 3, 1980).

3.64.090 Tax rebate – Effective date.

The utility tax rebate provided for in this chapter shall apply to all utility taxes paid on or after January 1, 1980. The first filing period for claims shall open on January 2, 1981. (Ord. 1108 § 4, 1980).

3.64.100 Applicability.

The procedures for appeal established by MMC 3.64.110 through 3.64.150 shall apply to all utility taxes imposed by the city of Marysville. (Ord. 2362 § 1, 2001).

3.64.110 Administrative appeal for taxes assessed, due or to be paid after the effective date of MMC 3.64.110 through 3.64.150.

Any taxpayer aggrieved by the amount of the fee or tax assessed or found due by the city finance director or his designee after the effective date of the ordinance codified in this section may file a written appeal with the city clerk requesting a hearing before the city hearing examiner established under Chapter 2.70 MMC whose duties are hereby expanded consistent with this section. The appeal must be filed within 20 days from the date such taxpayer was given notice of the fee or tax assessed or found due. The city clerk shall, as soon as practicable, fix a time and place for the hearing of such

appeal. A notice of the time and place of the appeal shall be mailed to the taxpayer. The hearing shall be conducted in accordance with the procedures established by the hearing examiner, including any rules as may be adopted in accordance with MMC 3.64.130. The hearing examiner may reverse, affirm or modify any action of the finance director or his designee and ascertain the correct amount of the tax assessed or due in accordance with this chapter and general law. The hearing examiner's decision shall be in writing, supported by findings of fact and conclusions of law, and shall be issued within 20 days of the conclusion of the hearing. The decision of the hearing examiner, subject to any appeal to court as provided for herein, shall be final. During the appeal, interest on any taxes owed and unpaid will continue to accrue until payment is received. The taxpayer may stop the accrual of interest by paying the tax, and then appealing the tax. If the taxpayer pays the tax, and then prevails on appeal, any part of the tax paid but found not owing will be refunded, plus any interest which has accrued on such funds. If no such written appeal as provided for herein is filed within the 30-day period, the tax shall be final and be due in accordance with the other provisions of this chapter for the payment and collection of fees and taxes.

The hearing examiner shall have the authority to require the attendance of witnesses, by subpoena, and to direct that any person appear and produce pertinent books and records for inspection. Any person served with such subpoena shall appear at the time and place therein stated and produce books and records as required. The city attorney is hereby authorized to enforce any subpoena issued in court as the hearing examiner may from time to time direct. (Ord. 2362 § 1, 2001).

3.64.120 Administrative appeal for refund of any tax paid prior to the effective date of MMC 3.64.110 through 3.64.150.

Unless a taxpayer shall have litigation pending against the city on the effective date of the ordinance codified in this section, any taxpayer who has paid a tax to the city prior to the effective date of the ordinance codified in this section, who claims he/she is aggrieved and asserts a refund is due, may file a written claim with the city clerk requesting a hearing before the city hearing examiner pursuant to Chapter 2.70 MMC, whose duties are hereby expanded consistent with this section. The claim shall be deemed an appeal. The appeal shall be filed within 60 days from the effective date of the ordinance codified in this section. The city clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal. A notice of the time and place of the appeal shall be mailed to the taxpayer. The hearing shall be conducted in accordance with the procedures established by the hearing examiner, including any rules as may be adopted in accordance with MMC 3.64.130. The hearing examiner may reverse, affirm or modify any action of the city, ascertain the correct amount of the tax, and direct a refund (including interest) consistent with this chapter and general law. The hearing examiner's decision shall be in writing, supported by findings of fact and conclusions of law, and shall be issued within 20 days of the conclusion of the hearing. The decision of the hearing examiner, subject to any appeal to court as provided for herein, shall be final.

The hearing examiner shall have the authority to require the attendance of witnesses, by subpoena, and to direct that any person appear and produce pertinent books and records for inspection. Any person served with such subpoena shall appear at the time and place therein stated and produce books and records as required. The city attorney is hereby authorized to enforce any subpoena issued in court as the hearing examiner may from time to time direct. (Ord. 2362 § 1, 2001).

3.64.130 Additional rules.

The hearing examiner shall have the power, from time to time, to adopt, publish and enforce rules consistent with the purposes of this chapter. Before such rules shall be enforced, they shall be presented to and approved by the city council by appropriate resolution. (Ord. 2362 § 1, 2001).

3.64.140 Notices.

Any notice required by this chapter to be mailed to any taxpayer shall be sent ordinary mail, postage prepaid, addressed to the address of the taxpayer as shown by the records of the city of Marysville, or if no such address is shown, to such address as the city clerk is able to ascertain by reasonable effort. Failure of the taxpayer to receive any such mailed notice shall not release the taxpayer from any tax, or any penalties, and any tax nonetheless shall become final in accordance with the provisions of this chapter. The failure to receive notice shall not operate to extend any time limit set by the provisions of this chapter. Notice shall be deemed given to the taxpayer on the fourth calendar day after the day of placement of the notice in the mail, so for example, if a notice is placed in the mail on Monday, it shall be deemed given as of the Friday of the same week. (Ord. 2362 § 1, 2001).

3.64.150 Appeals to court.

Any taxpayer, except one who has failed to file a written administrative appeal as provided for in this chapter, feeling aggrieved by the amount of the tax found owing, may appeal to the superior court of the state of Washington in and for Snohomish County within the time limitation provided by RCW Title 4. In the appeal, the taxpayer shall set forth the amount of the tax imposed which the taxpayer concedes is correct and the amount of the tax the taxpayer asserts should be reduced, abated or refunded. The notice of appeal shall be served upon the city as if original process, except that no summons shall be necessary.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden of proof shall rest upon the taxpayer to prove that the tax assessed, due or paid is incorrect, either in whole or in part, and to establish the correct amount of the tax assessed, due or paid. In such appeal, the taxpayer shall be the plaintiff and the city shall be the defendant. All procedures, including any further appeal, shall be in accordance with the Superior Court Civil Rules and the Rules of Appellate Procedure. (Ord. 2362 § 1, 2001).

3.64.160 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 2362 § 1, 2001).

3.64.170 Taxpayer record keeping, inspection and audit of taxpayer records.

Each taxpayer shall keep records for up to six years reflecting the amount of his or her gross operating revenues on services within the city. Such records shall be open at all reasonable times for inspection and audit by the finance director or his or her duly authorized designee for verification of tax returns or for the filing of the tax of a taxpayer who fail to make a return as required by law. (Ord. 2533 § 1, 2004).

3.64.180 Penalty for delinquent payment.

If any person, firm or corporation subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10 percent of the amount of such tax, and any tax due under this chapter which is unpaid and all penalties thereon shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies. (Ord. 2533 § 2, 2004).

3.64.190 Interest charge for delinquent taxes and penalties.

If any taxpayer fails, neglects or refuses to make its return as and when required herein, the designated official is authorized to determine the amount of tax payable, and by mail to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon be the tax and be immediately due and payable, together with penalty and interest. Delinquent taxes, including any penalty and interest, are subject to an interest charge of 12 percent per year on any unpaid balance from the date the tax became due as provided in MMC 3.64.020, 3.64.030, and 3.64.040 until paid. (Ord. 2533 § 3, 2004).

Chapter 3.65

WATER AND SEWER DEPARTMENT GROSS RECEIPTS TAX

Sections:

3.65.010 Tax imposed.
3.65.020 Tax payment.
3.65.030 Deposit of revenues.
3.65.040 Excess payments.

3.65.010 Tax imposed.

There is levied and there shall be collected from the water and sewer department of the city a tax in the amount of six percent of the gross receipts of the customer accounts in such department; provided, the tax is not collected from receipts received by the department from any public water or sewer district or city or from the receipts from wholesale sales of water to other public purveyors. (Ord. 2168, 1997; Ord. 1976 § 1, 1993; Ord. 1812 § 1, 1990).

3.65.020 Tax payment.

The tax imposed by MMC 3.65.010 shall be due and payable in monthly installments and remittance thereof shall be due by the twentieth day of the following month in which the tax accrued. On or before the twentieth day of such month the water and sewer department shall make a return upon a form to be provided by the director of finance setting forth such information as may be required and showing the amount of the tax for which the water and sewer department is liable for the preceding monthly period, and shall transmit the same to the director of finance together with the remittance for the amount then due. (Ord. 1976 § 1, 1993; Ord. 1812 § 1, 1990).

3.65.030 Deposit of revenues.

All revenue derived from the tax imposed in this chapter shall be deposited in the general fund of the city. (Ord. 1976 § 1, 1993; Ord. 1812 § 1, 1990).

3.65.040 Excess payments.

Any money paid to the general fund through error and in excess of such tax shall be credited against any tax due or to become due in the succeeding monthly period. (Ord. 1976 § 1, 1993; Ord. 1812 § 1, 1990).

Chapter 3.66

WATER AND SEWER UTILITY TAX

Sections:

3.66.010 Charge in lieu of tax established – Annual levy.
3.66.020 Rate.
3.66.030 Deposit of revenues.

3.66.010 Charge in lieu of tax established – Annual levy.

There is established an “in lieu of tax” charge upon the city of Marysville’s water and sewer utility, which charge shall be levied annually, with the first such levy being effective on January 1, 1980. (Ord. 1085 § 1, 1979).

3.66.020 Rate.

The rate for said charge shall be $3.375 per each $1,000 of the book value of the city’s water and sewer utility, before allowance for depreciation, as such value appears on the utility’s books on December 31st of the proceeding year. (Ord. 1202 § 1, 1981; Ord. 1085 § 2, 1979).

3.66.030 Deposit of revenues.

All revenue derived from the charge imposed in this chapter shall be deposited in the general fund of the city. (Ord. 1085 § 3, 1979).

Chapter 3.67

SOLID WASTE DEPARTMENT GROSS RECEIPTS TAX

Sections:
3.67.010 Tax imposed.
3.67.020 Tax payment.
3.67.030 Deposit of revenues.
3.67.040 Excess payments.

3.67.010 Tax imposed.

There is levied and there shall be collected from the solid waste department of the city a tax in the amount of six percent of the gross receipts of the customer accounts in such department. (Ord. 2169, 1997; Ord. 1976 § 2, 1993; Ord. 1813 § 1, 1990).

3.67.020 Tax payment.

The tax imposed by MMC 3.65.010 shall be due and payable in monthly installments and remittance thereof shall be due by the twentieth day of the following month in which the tax accrued. On or before the twentieth day of such month the water and sewer department shall make a return upon a form to be provided by the director of finance setting forth such information as may be required and showing the amount of the tax for which the water and sewer department is liable for the preceding quarterly period, and shall transmit the same to the director of finance together with the remittance for the amount then due. (Ord. 1976 § 1, 1993; Ord. 1813 § 1, 1990).

3.67.030 Deposit of revenues.

All revenue derived from the tax imposed in this chapter shall be deposited in the general fund of the city. (Ord. 1976 § 2, 1993; Ord. 1813 § 1, 1990).

3.67.040 Excess payments.

Any money paid to the general fund through error and in excess of such tax shall be credited against any tax due or to become due in the succeeding monthly periods. (Ord. 1976 § 2, 1993; Ord. 1813 § 1, 1990).

Chapter 3.68

LEASEHOLD EXCISE TAX

Sections:
3.68.010 Levied.
3.68.020 Rate.
3.68.030 Administration and collection.
3.68.040 Exemptions.
3.68.050 Records inspection.
3.68.060 Contract with state.

3.68.010 Levied.

There is levied and shall be collected a leasehold excise tax on and after January 1, 1976, upon the act or privilege of occupying or using publicly owned real or personal property within the city through a "leasehold interest" as defined by Section 2, Chapter 61, Laws of 1975-1976, Second Extraordinary Session (hereafter "the state act"). The tax shall be paid, collected, and remitted to the Department of Revenue of the state of Washington at the time and in the manner prescribed by Section 5 of the state act. (Ord. 892 § 1, 1976).

3.68.020 Rate.

The rate of the tax imposed by MMC 3.68.010 shall be four percent of the taxable rent (as defined by Section 2 of the state act); provided, that the following credits shall be allowed in determining the tax payable:

(1) With respect to a leasehold interest arising out of any lease or agreement, the terms of which are binding on the lessee prior to July 1, 1970, where such lease or agreement has not been renegotiated (as defined by Section 2 of the state act) since that date, and excluding from such credit any leasehold interest arising out of any lease of property covered by the provisions of RCW 28B.20.394 and any lease or agreement including options to renew which extends beyond January 1, 1985, as follows:

(a) With respect to taxes due in calendar year 1976, a credit equal to 80 percent of the tax produced by the above rate;

(b) With respect to taxes due in calendar year 1977, a credit equal to 60 percent of the tax produced by the above rate;

(c) With respect to taxes due in calendar year 1978, a credit equal to 40 percent of the tax produced by the above rate;

(d) With respect to taxes due in calendar year 1979, a credit equal to 20 percent of the tax produced by the above rate.

(2) With respect to a product lease (as defined by Section 2 of the state act), a credit of 33 percent of the tax produced by the above rate. (Ord. 892 § 2, 1976).

3.68.030 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of the state act. (Ord. 892 § 3, 1976).

3.68.040 Exemptions.

Leasehold interests exempted by Section 13 of the state act as it now exists or may hereafter be amended, shall be exempt from the tax imposed pursuant to MMC 3.68.010. (Ord. 892 § 4, 1976).

3.68.050 Records inspection.

The city consents to the inspection of such records as are necessary to qualify the city for inspection of records of the Department of Revenue pursuant to RCW 82.32.330. (Ord. 892 § 5, 1976).

3.68.060 Contract with state.

The mayor is authorized to execute a contract with the Department of Revenue of the state of Washington for the administration and collection of the tax imposed by MMC 3.68.010; provided, that the city attorney shall first approve the form and content of said contract. (Ord. 892 § 6, 1976).

Chapter 3.69

SURFACE WATER UTILITY GROSS RECEIPTS TAX

Sections:

3.69.010 Tax imposed.
3.69.020 Tax payment.
3.69.030 Deposit of revenues.
3.69.040 Excess payment.

3.69.010 Tax imposed.

There is levied and there shall be collected from the surface water utility department of the city a tax in the amount of six percent of the gross. (Ord. 2170, 1997; Ord. 1976 § 3, 1993; Ord. 1926 § 1, 1992).

3.69.020 Tax payment.

The tax imposed by MMC 3.69.010 shall be due and payable in monthly installments and remittance thereof shall be due by the twentieth day of the following month in which the tax accrued. On or before the twentieth day of such month the surface water utility department shall make a return upon a form to be provided by the director of finance setting forth such information as may be required and showing the amount of the tax for which the surface water utility department is liable for the preceding monthly period, and shall transmit the same to the director of finance together with the remittance for the amount then due. (Ord. 1976 § 3, 1993; Ord. 1926 § 1, 1992).

3.69.030 Deposit of revenues.

All revenue derived from the tax imposed in this chapter shall be deposited in the general fund of the city. (Ord. 1976 § 3, 1993; Ord. 1926 § 1, 1992).

3.69.040 Excess payment.

Any money paid to the general fund through error and in excess of such tax shall be credited against any tax due or to become due in the succeeding monthly period. (Ord. 1976 § 3, 1993; Ord. 1926 § 1, 1992).

Chapter 3.70

GOLF COURSE OPERATING FUND

Sections:
3.70.010 Creation – Custodian.

3.70.010 Creation – Custodian.

There is created and established in the office of the city finance officer a special fund to be known as the "Golf Course Operating Fund," to which shall be credited all rentals, charges, income and revenue arising from the operation and ownership of the golf course; and from which shall be paid all operating costs of the golf course. The city finance officer is designated the custodian of the fund. (Ord. 1319 § 1, 1983).

Chapter 3.76

MUNICIPAL ARTS FUND

Sections:
3.76.010 Creation.

3.76.010 Creation.

There is created a special fund entitled the municipal arts fund into which shall be paid all grants, bequests, donations and such municipal funds as the city council may designate for use in connection with the functions specified in Chapter 2.88 MMC and as said chapter may hereafter be amended, and from which shall be paid the expenses of the advisory commission on the arts which are incurred in the performance of its duties and responsibilities under said chapter and any other appropriate ordinances of the city of Marysville. (Ord. 1017, 1979).

Chapter 3.80

MARYSVILLE TECHNOLOGY INFRASTRUCTURE FUND[1]

Sections:

3.80.010 Created.
3.80.020 Administration.
3.80.030 Unexpended funds.
3.80.040 *Repealed.*

3.80.010 Created.

There is hereby established a special fund to be designated the "Marysville technology infrastructure fund." The purpose of this fund is to provide for the deposit and financial administration, including project accounting, of monetary fees, to the city for the benefit of implementing and maintaining the city's technology infrastructure. (Ord. 2541 § 1, 2004; Ord. 2315, 2000).

3.80.020 Administration.

The finance department shall have the responsibility for the financial administration of the fund and shall maintain separate records of accounts showing receipts and disbursements for all fees and for all projects assigned to the fund. The department may also establish rules and regulations for the administration of the fund. (Ord. 2541 § 2, 2004; Ord. 2315, 2000).

3.80.030 Unexpended funds.

Any unexpended funds remaining in the Marysville technology infrastructure fund at the end of the budget year shall not be transferred to the city's current expense fund or otherwise lapse; rather, such unexpended funds shall be carried forward from year to year until expended for the purpose of maintaining the technology infrastructure. (Ord. 2541 § 3, 2004; Ord. 2315, 2000).

3.80.040 Use.

Repealed by Ord. 2541. (Ord. 2315, 2000).

1. Code reviser's note: Ord. 2315 adds these provisions as Ch. 3.89. This chapter has been editorially renumbered as Ch. 3.80 to avoid conflict with existing provisions.

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Chapter 3.84

SALES AND USE TAX

Sections:

3.84.010 Imposition.
3.84.020 Rate of tax.
3.84.030 Initiative – Additional tax.
3.84.040 Administration and collection of tax.
3.84.050 Department of Revenue designated as agent.
3.84.060 Effective date.

3.84.010 Imposition.

Pursuant to RCW 82.14.030 there is imposed a sales and use tax. The tax shall be collected from those persons who are taxable by the state of Washington pursuant to Chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event, as defined in such statutes, within the city. (Ord. 1234 § 1, 1982).

3.84.020 Rate of tax.

The rate of such tax shall be as follows:

(1) Basic Tax. The sales and use tax imposed by the city in 1970 shall be continued at the rate of five-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax); provided, however, that during such period as there is in effect a sales or use tax imposed by Snohomish County pursuant to RCW 82.14.030(1), as amended in 1982, the city tax shall be four hundred twenty-five one-thousandths of one percent; and

(2) Additional Tax. Pursuant to RCW 82.14.030 (2), as amended in 1982, an additional sales and use tax is imposed at the rate of five-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax); provided, however, that during such period as there is in effect a sales or use tax imposed by Snohomish County pursuant to RCW 82.14.030(2), as amended in 1982, the county shall receive 15 percent of the city tax imposed by this subparagraph, or 15 percent of the rate of said tax imposed by the county, whichever is less. (Ord. 1234 § 2, 1982).

3.84.030 Initiative – Additional tax.

The fixing and imposition of sales and use tax pursuant to MMC 3.84.020(2) shall be subject to approval or rejection by the voters of the city through a special initiative procedure. Said procedure shall conform to the requirements and procedures for initiative petitions provided for code cities in RCW 35A.11.100, which incorporates by reference RCW 35.17.240 through 35.17.360, as now or hereafter amended. (Ord. 1234 § 3, 1982).

3.84.040 Administration and collection of tax.

All definitions, rules, forms, recording procedures and regulations adopted by the department of revenue for the administration of Chapters 82.08, 82.12, 82.14 and 82.32 RCW are adopted by reference for the purpose of administration and collection of the tax levied in this chapter. (Ord. 1234 § 4, 1982).

3.84.050 Department of Revenue designated as agent.

The Washington State Department of Revenue is designated as the agent for the city for the purpose of administration and collection of the tax levied in this chapter. (Ord. 1234 § 5, 1982).

3.84.060 Effective date.

This chapter is necessary for the immediate preservation of the public peace, health and safety, the support of the city government and its existing public institutions, and shall take effect immediately; except MMC 3.84.020(2) shall take effect July 1, 1982, unless earlier rejected by initiative of the voters. (Ord. 1234 § 6, 1982).

Chapter 3.88

REAL ESTATE EXCISE TAX

Sections:

3.88.010 Imposition – Collection.
3.88.015 Additional tax imposed – Collection.
3.88.020 Lien.
3.88.030 Seller's obligation.
3.88.040 Collection.
3.88.050 Disbursal of tax proceeds.
3.88.060 Deposits in growth management fund.
3.88.070 Effective date.

3.88.010 Imposition – Collection.

(1) There is levied and imposed an excise tax on each sale of real property within the corporate limits of the city at a rate of one-quarter of one percent of the selling price of the real property.

(2) The excise tax shall be collected from those persons who are taxable by the state of Washington under Chapter 82.45 RCW upon the occurrence of any taxable event within the corporate limits of the city.

(3) The excise tax shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the state of Washington under Chapter 82.45 RCW. (Ord. 1244 § 1, 1982).

3.88.015 Additional tax imposed – Collection.

(1) There is levied and imposed an excise tax on each sale of real property within the corporate limits of the city at a rate of one-quarter of one percent of the selling price of the real property.

(2) The excise tax so imposed is in addition to the excise tax imposed under MMC 3.88.010(1).

(3) The additional excise tax shall be collected in accordance with MMC 3.88.010(2).

(4) MMC 3.88.010(3) shall apply to this additional excise tax. (Ord. 1820, 1991).

3.88.020 Lien.

The real estate excise taxes herein imposed and interest or penalties thereon shall constitute a specific lien upon each piece of real property sold from the time of sale until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. (Ord. 1820, 1991; Ord. 1244 § 2, 1982).

3.88.030 Seller's obligation.

Both excise taxes shall be the obligation of the seller of the real property and may be enforced through an action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other. (Ord. 1820, 1991; Ord. 1244 § 3, 1982).

3.88.040 Collection.

Both excise taxes shall be paid to and collected by the Snohomish County treasurer. The treasurer shall act as agent for the city. The treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording, or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the treasurer for the payment of the tax shall be evidence of the satisfaction of the lien imposed by MMC 3.88.020, and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the taxes may be accepted by the county auditor for filing or recording until the taxes are paid and the stamp affixed thereto; in case the taxes are not due on the transfer, the instrument shall not be accepted until a suitable notation of this fact is made on the instrument by the treasurer. (Ord. 1820, 1991; Ord. 1244 § 4, 1982).

3.88.050 Disbursal of tax proceeds.

(1) The Snohomish County treasurer shall deposit one percent of the proceeds of the excise tax collected pursuant to MMC 3.88.010 into the Snohomish County current expense fund to defray the costs of collection. No such deduction shall be made from the proceeds of the excise tax collected pursuant to MMC 3.88.015.

(2) The remaining proceeds of both excise taxes shall be remitted to the city on a monthly basis. (Ord. 1820, 1991; Ord. 1244 § 5, 1982).

3.88.060 Deposits in growth management fund.

(1) All proceeds of the excise tax collected pursuant to MMC 3.88.010 and disbursed to the city shall be deposited into the growth management fund. Said proceeds shall be accumulated from year to year, and may be expended at such times as the city council shall by ordinance direct for purposes of making capital improvements for the public benefit, including but not limited to those capital improvements listed in RCW 35.43.040, provided, that after July 1, 1990 revenues generated from the tax imposed under MMC 3.88.010, shall be used primarily for financing capital projects specified in a capital facilities plan element of a comprehensive

plan and housing relocation assistance under RCW 59.18.440 and 59.18.450.

(2) All proceeds of the excise tax collected pursuant to MMC 3.88.015 and disbursed to the city shall be deposited into a separate account in the growth management fund. Said proceeds shall be accumulated from year to year, and may be expended at such times as the city council shall by ordinance direct solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan. (Ord. 1820, 1991; Ord. 1244 § 6, 1982).

3.88.070 Effective date.

(1) All provisions of this chapter relating to the excise tax imposed by MMC 3.88.010 shall be effective July 1, 1982.

(2) All provisions of this chapter relating to the excise tax imposed by MMC 3.88.015 shall be effective March 1, 1991. (Ord. 1820, 1991; Ord. 1244 § 7, 1982).

Chapter 3.89

HISTORIC PROPERTY SPECIAL PROPERTY TAX VALUATION

Sections:

3.89.010 Establishment of review board.
3.89.020 Time lines.
3.89.030 Procedure.
3.89.040 Eligibility criteria.
3.89.050 Agreement.
3.89.060 Appeals.

3.89.010 Establishment of review board.

(1) The Marysville city council shall serve as the review board for applications for historic property improvement property tax exemption.

(2) The city planning director shall be the staff liaison for said tax exemption applications. (Ord. 2293 § 1(A), 1999).

3.89.020 Time lines.

(1) All applications for a historic property improvement property tax special valuation shall be filed with the county assessor on forms as provided by Snohomish County.

(2) The county assessor shall forward all applications to the Marysville city council within 10 days of filing.

(3) The Marysville city council before December 31st of the calendar year in which the application is made shall review all applications.

(4) Marysville city council decisions regarding the applications shall be certified in writing and filed with the county assessor within 10 days of issuance. (Ord. 2293 § 1(B), 1999).

3.89.030 Procedure.

(1) The county assessor forwards the application(s) to the planning commission.

(2) The Marysville city council reviews the application(s) consistent with its rules of procedure, and determines if the application(s) are complete and if the properties meet the criteria set forth in WAC 254-20-070(1).

(a) If the Marysville city council finds the properties meet all the criteria, then, on behalf of the city of Marysville, it enters into an historic preservation special valuation agreement (set forth in WAC 254-20-120) with the owner. Upon execution of the agreement between the owner and the city, the Marysville city council may approve the application(s).

(b) If the Marysville city council determines the properties do not meet all the criteria, then it shall deny the application(s).

(3) The Marysville city council certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the assessor and mails a copt to the applicant.

(4) For approved applications:

(a) The Marysville city council forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-20-090(4)) to the county assessor;

(b) The Marysville city council notifies the county assessor and the property owner that the properties have been approved for special valuation; and

(c) The Marysville city council monitors the properties for continued compliance with the agreements throughout the 10-year special valuation period.

(5) The Marysville city council shall determine, in a manner consistent with its rules of procedure, WAC 254-20-090(4) and this chapter, whether or not properties are disqualified from special valuation either because of:

(a) The owner's failure to comply with the terms of the agreement; or

(b) Because of a loss of historic value resulting from physical changes to the building or site.

(6) For disqualified properties, in the event that the Marysville city council concludes that a property is no longer qualified for special valuation, the city council will notify the owner, county assessor, and state historic preservation review board in writing and state the facts supporting its findings. (Ord. 2293 § 1(C), 1999).

3.89.040 Eligibility criteria.

(1) Historical Property Criteria. The class of historic property eligible to apply for special valuation in Marysville means all properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

(2) Application Criteria. A complete application shall consist of the following documentation:

(a) A legal description and street address of the historic property;

(b) Comprehensive exterior and interior photographs of the historic property before and after rehabilitation;

(c) Architectural plans or other legible drawings depicting the completed rehabilitation work;

(d) A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the Marysville city council upon request; and

(e) For properties located within historic districts, in addition to the standard application documentation, a statement from the Secretary of the Interior or appropriate local official, as specified in local administrative rules or by the local government, indicating the property is a certified historic structure is required.

(3) Property Review Criteria. In its review the Marysville city council shall determine if the properties meet all the following criteria:

(a) The property is historic property;

(b) The property is included within a class of historic property determined eligible for special valuation by the city of Marysville;

(c) The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) within 24 months prior to the date of application; and

(d) The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1)).

(4) Rehabilitation and Maintenance Criteria. The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the Marysville city council as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified. (Ord. 2293 § 1(D), 1999).

3.89.050 Agreement.

The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the Marysville city council as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2). (Ord. 2293 § 1(E), 1999).

3.89.060 Appeals.

Any decision of the Marysville city council acting on eligibility for special valuation may be appealed to superior court under RCW 84.26.130 and 34.05.510 through 34.05.598 in addition to any other remedy at law. Any decision on the disqualification of historic property eligible for special valuation or any other dispute may be appealed to the county board of equalization. (Ord. 2293 § 1(F), 1999).

Chapter 3.90

TRIBAL GAMING FUND

Sections:

3.90.010 Fund created.
3.90.020 Source of funds.
3.90.030 Expenditures.
3.90.040 Unexpended funds.
3.90.050 Severability.

3.90.010 Fund created.

There is created and established a fund to be designated the "tribal gaming fund." (Ord. 1981, 1994).

3.90.020 Source of funds.

The tribal gaming fund shall include deposits pursuant to Section 14(c) of the Tribal-Compact for Class III Gaming between the Tulalip Tribes of Washington and the state of Washington, as it now reads or is hereinafter amended. Such source of funds constitutes a percentage of the net win of the gaming stations conducted by the tribal gaming operations. (Ord. 1981, 1994).

3.90.030 Expenditures.

Expenditures of the deposits made pursuant to MMC 3.90.020 shall be limited to law enforcement purposes. For the purpose of this chapter, "law enforcement purposes" is defined as those activities and the support of police services as set forth in Section 521.00 of the state of Washington Budgeting, Accounting and Reporting System (BARS) relating to expenditure/use for law enforcement. (Ord. 1981, 1994).

3.90.040 Unexpended funds.

Any unexpended funds remaining in the tribal gaming fund at the end of the budget year shall not be transferred to the city's current expense fund or otherwise lapse; rather, such unexpended funds shall be carried forward from year to year until expended for the purposes set forth in MMC 3.90.030. (Ord. 1981, 1994).

3.90.050 Severability.

If any section, sentence, clause or phrase of this chapter shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. (Ord. 1981, 1994).

Chapter 3.92

GAMBLING ACTIVITIES TAX

Sections:

3.92.010 State laws adopted by reference.
3.92.020 Tax on raffles.
3.92.030 Exemption from tax on raffles and amusement games.
3.92.040 Tax on punchboards and pull tabs.
3.92.050 Tax on amusement games.
3.92.060 Tax on conducting of social card games.
3.92.070 Tax payments.
3.92.080 Taxpayer to keep records.
3.92.090 Distributors' records.
3.92.100 City clerk to investigate returns.
3.92.110 Extension of time penalties.
3.92.120 Over or under payment of tax.
3.92.130 Failure to make return.
3.92.140 Appeal to city council.
3.92.150 Mayor to make rules.
3.92.160 False returns and certifications.
3.92.170 License fee – Additional to others.
3.92.180 Tax constitutes debt.
3.92.190 Violations – Penalty.

3.92.010 State laws adopted by reference.

Those provisions of the state of Washington Gambling Act, not less than three copies of which are on file in the office of the city clerk of the city of Marysville, as set forth in the following sections of the Revised Code of Washington, and as hereafter amended, are adopted by the city of Marysville as though fully set forth herein:

(1) RCW 9.46.020, entitled "Definitions."

(2) RCW 9.46.150, entitled "Injunctions – Voiding of licenses, permits or certificates."

(3) RCW 9.46.180, entitled "Causing organization to violate chapter as violation – Penalty"; provided, that such section is hereby amended to establish the penalty as a gross misdemeanor.

(4) RCW 9.46.190, entitled "Violations relating to fraud or deceit – Penalty."

(5) RCW 9.46.196, Cheating – Defined.

(6) RCW 9.46.1962, Cheating in the second degree.

(7) RCW 9.46.230, entitled "Seizure and disposition of gambling devices – Owning, buying, selling, etc., gambling devices or records – Penalty"; provided, that such section is amended to establish the penalty as a gross misdemeanor.

(8) RCW 9.46.240, entitled "Gambling information, transmitting or receiving as violation – Penalty."

(9) RCW 9.46.250, entitled "Gambling property or premises – Common nuisances, abatement – Termination of mortgage, contract or leasehold interests, licenses – Enforcement."

(10) RCW 9.46.260, entitled "Proof of possession as evidence of knowledge of its character." (Ord. 2591 § 1, 2005; Ord. 829 § 2, 1974).

3.92.020 Tax on raffles.

There is levied upon and shall be collected from and paid as provided in this chapter by every organization conducting raffles, as authorized pursuant to Chapter 9.46 RCW and this chapter, a tax in the amount of five percent of the gross revenue received from such raffle activity, less the amount paid for or as prizes. (Ord. 2440 § 1, 2002; Ord. 1490 § 1, 1986; Ord. 1147 § 1, 1980; Ord. 1135 § 1, 1980; Ord. 829 § 3, 1974).

3.92.030 Exemption from tax on raffles and amusement games.

No tax shall be imposed under the authority of this chapter on raffles or amusement games when such activities are conducted by any bona fide charitable or nonprofit organization, as defined in RCW 9.46.0209, which organization has no paid operating or management personnel and has a gross income from raffles or amusement games not exceeding $10,000 per year, less the amount paid for as prizes. (Ord. 2440 § 2, 2002; Ord. 1490 § 2, 1986; Ord. 1147 § 3, 1980; Ord. 964, 1977).

3.92.040 Tax on punchboards and pull tabs.

(1) Commercial Stimulant Operators. There is levied upon and shall be collected from and paid as provided in this chapter by commercial stimulant operators utilizing punchboards and pull tabs as authorized pursuant to Chapter 9.46 RCW and this chapter, a tax in the amount of five percent of the gross receipts from such punchboards and pull tabs.

(2) Bona Fide Charitable or Nonprofit Organizations. There is levied upon and shall be collected from and paid as provided in this chapter by bona fide charitable or nonprofit organizations utilizing punchboards and pull tabs as authorized pursuant to Chapter 9.46 RCW and this chapter, a tax in the amount of five percent from the operation of the games less the amount awarded as cash or merchandise prizes. (Ord. 2442 § 1, 2002; Ord. 1135 § 2, 1980; Ord. 851 § 1, 1975; Ord. 829 § 4, 1974).

3.92.050 Tax on amusement games.

There is levied upon and shall be collected from and paid as provided in this chapter by every person, association or organization conducting amusement games, as authorized pursuant to Chapter 9.46 RCW and this chapter, a tax in the amount of two percent of the gross revenue received from such amusement games, less the amount paid for or as prizes. (Ord. 1147 § 2, 1980).

3.92.060 Tax on conducting of social card games.

There is levied upon and shall be collected from and paid as provided in this chapter by every person, association or organization conducting social card games, as authorized pursuant to Chapter 9.46 RCW and this chapter, a tax of 20 percent of the gross revenue received from the conducting of such social card games. (Ord. 2307, 1999; Ord. 829 § 5, 1974).

3.92.070 Tax payments.

(1) Quarterly payments of tax imposed by this chapter shall be due and payable in quarterly installments, and remittance therefor shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued. It is the taxpayer's obligation to compute and make the payment on or before such date and to accompany the same with a return on a form to be provided and prescribed by the city clerk. The taxpayer shall be required to swear or affirm that the information given on the tax return is full and true and that the taxpayer knows the same to be so.

(2) Annual Return. Whenever the total tax for which any person is liable under this chapter does not exceed the sum of $2.00 for any quarterly period, an annual return may be made upon written request and subject to the approval of the city clerk.

(3) Partial Periods. Whenever a taxpayer commences to engage in business during any quarterly period, his first return and tax shall be based upon and cover the portion of the quarterly period during which he is engaged in business.

Tax payments under the provisions of this chapter shall commence accruing on January l, 1975, and the first payments and returns shall be made on or before April 20, 1975. (Ord. 851 § 2, 1975; Ord. 839 § 2, 1974; Ord. 829 § 6, 1974).

3.92.080 Taxpayer to keep records.

It shall be the duty of each taxpayer taxed pursuant to this chapter to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of the gross revenue received from the taxable gambling activity which he is conducting. (Ord. 829 § 8, 1974).

3.92.090 Distributors' records.

All persons, corporations, associations or organizations selling, distributing or otherwise supplying gambling devices for use within the city of Marysville shall file with the city clerk not less frequently than quarterly a statement showing the following:

(1) The full name and business address of each person, organization, association or business to whom the distributor has sold or distributed any gambling device, including, but not limited to, punchboards, pull tabs, pull tab dispensing devices and merchandise to be used as prizes in connection therewith;

(2) The gross amount of money of each of these sales to each of these persons together with the price charged for each of the items sold;

(3) A full description of each of the devices sold, together with the quantity of each kind sold. When punchboards, series of pull tabs or pull tab dispensing devices are sold, this description shall include the number or symbol from the stamp obtained from the State Gambling Commission for each of the punchboards, series of pull tabs or pull tab dispensing devices included in such sale. (Ord. 829 § 9, 1974).

3.92.100 City clerk to investigate returns.

If any taxpayer fails to make his return, or if the city clerk is dissatisfied as to the correctness of the statements made in the return of any taxpayer, the officer, or his authorized agent, may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting his books or records of account to ascertain the amount of the tax or to determine the correctness of such statements, as the case may be, and may examine any person under oath administered by the officer, or his agent, touching the matters inquired into; or the officer, or his authorized agent, may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon such investigation and there testify, under oath administered by the officer, or his agent, in regard to the matters inquired into and may, by subpoena, require him or any person to bring with him such books, records and papers as may be necessary. (Ord. 829 § 10, 1974).

3.92.110 Extension of time penalties.

The city clerk for good cause shown may extend the time for making and filing any return as required under this chapter, and may grant such reasonable additional time within which to file such return as he may deem proper; provided, that any extension in excess of 30 days shall be conditioned upon payment of interest of one-half of one percent for each 30 days or portion thereof on the amount of the tax from the date upon which tax becomes due. If tax return and/or payment are not received within 15 days of due date, a penalty must be included as follows: if 16 to 45 days delinquent, 10 percent of the tax with a minimum penalty of $1.00; if 46 to 75 days delinquent, 15 percent of the tax with a minimum penalty of $2.00; and if 76 or more days delinquent, 20 percent of the tax with a minimum penalty of $3.00. (Ord. 829 § 11, 1974).

3.92.120 Over or under payment of tax.

If the city clerk upon investigation or upon checking returns finds that the tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the general fund. If the city clerk finds that the tax paid is less than required, he shall mail a statement to the taxpayer showing the balance due, who shall, within 10 days, pay the amount shown thereon. (Ord. 829 § 12, 1974).

3.92.130 Failure to make return.

If any taxpayer fails, neglects or refuses to make his return as and when required herein, the city clerk is authorized to determine the amount of the tax payable, and by mail to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable. (Ord. 829 § 13, 1974).

3.92.140 Appeal to city council.

Any taxpayer aggrieved by the amount of the tax found by the city clerk to be required under the provisions of this chapter may appeal to the city council from such finding by filing a written notice of appeal with the city clerk within five days from the time such taxpayer was given notice of such amount. The city clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall be not more than 10 days after the filing of the notice of appeal, and he shall cause a notice of hearing, and a notice of the time and place thereof to be mailed to the applicant. At such hearing the taxpayer shall be entitled to be heard and to introduce evidence in his own behalf. The city council shall thereupon ascertain the correct amount of the tax by resolution and the city clerk shall immediately notify the appellant thereof by mail, which amount, together with costs of the appeal, if appellant is unsuccessful therein, must be paid within 10 days after such notice is given.

The mayor may, by subpoena, require the attendance thereat of any person, and may also require him to produce any pertinent books and records. Any person with such subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the mayor as to any matter required of him pertinent to the appeal and it is unlawful for him to fail or refuse to do so. (Ord. 829 § 14, 1974).

3.92.150 Mayor to make rules.

The mayor shall have the power, and it shall be his duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions hereof, and it is unlawful to violate or fail to comply with any such rule or regulation. (Ord. 829 § 15, 1974).

3.92.160 False returns and certifications.

It is unlawful for any person liable to tax hereunder to fail or refuse to make the returns or certifications as and when required or to pay the tax when due, or for any person to make any false or fraudulent return or certification or any false statement or representation in, or in connection with, any such return or certification, or to aid or abet another in any attempt to evade payment of the tax, or any part thereof, or for any person to fail to appear and/or testify falsely upon any investigation of the correctness of a return or upon the hearing of any appeal, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter. (Ord. 829 § 16, 1974).

3.92.170 License fee – Additional to others.

The tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of Marysville, a municipal corporation, except as herein otherwise expressly provided. (Ord. 829 § 17, 1974).

3.92.180 Tax constitutes debt.

Any tax due and unpaid under this chapter and all penalties thereon, shall constitute a debt to Marysville, a municipal corporation, and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

The right of recovery by the city of Marysville from the taxpayer for any tax provided hereunder shall be outlawed after the expiration of three years and the right of recovery against the city of Marysville because of overpayment of tax by any taxpayer shall be outlawed after the expiration of three years, after which time the taxpayer shall have no right of recovery against the city of Marysville. (Ord. 829 § 18, 1974).

3.92.190 Violations – Penalty.

Any person violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the mayor pursuant thereto, upon conviction thereof, shall be punished by a fine in any sum not to exceed $1,000, or by imprisonment in jail for a term not exceeding 90 days, or by both such fine and imprisonment. (Ord. 2591 § 2, 2005; Ord. 829 § 19, 1974).

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Chapter 3.93

HOTEL/MOTEL TAX

Sections:

3.93.010 Tax levied.
3.93.020 Definitions.
3.93.030 Deduction from sales tax.
3.93.040 Special fund – Use of tax revenue.
3.93.050 Administration.
3.93.060 Penalty for violation.

3.93.010 Tax levied.

Pursuant to RCW 67.28.180, there is levied a special excise tax of two percent on the sale of or charge made for the furnishing of lodging by a hotel, roominghouse, tourist court, motel, trailer camp and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property; provided, that it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. (Ord. 1755 § 1, 1990).

3.93.020 Definitions.

The definitions of "selling price," "seller," "buyer," "consumer," and all other definitions as are now contained in RCW 82.08.010, and subsequent amendments thereto, are adopted as the definitions for the tax levied herein. (Ord. 1755 § 1, 1990).

3.93.030 Deduction from sales tax.

The tax herein levied shall be in addition to any license fee or any tax imposed or levied under any law or any other ordinance of the city; provided, however, that pursuant to RCW 67.28.190, such tax shall be deducted from the amount of tax the seller would otherwise be required to collect and to pay to the Department of Revenue under Chapter 82.08 RCW. (Ord. 1755 § 1, 1990).

3.93.040 Special fund – Use of tax revenue.

There is created a special fund in the treasury of the city, to be known as the hotel/motel tax fund. All taxes collected herein shall be placed in such fund for the purposes of paying all or any part of the costs of acquisition, construction or operation of stadium, convention center, performing arts center, visual arts center facilities or any other such facilities, or to pay or secure the payment of all or any portion of the general obligation bonds or revenue bonds issued for such purpose, or purposes provided for in Chapter 67.28 RCW, and amendments thereto, or to pay for advertising, publicizing or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion, or for such other uses as may from time to time be authorized for such taxes pursuant to statute. (Ord. 1755 § 1, 1990).

3.93.050 Administration.

For purposes of collection and administration of the tax levied herein, the following provisions shall apply:

(1) The Department of Revenue of the state of Washington is designated as the agent of the city for purposes of collection and administration.

(2) The administrative provisions contained in RCW 82.08.050 through 82.08.070, and in Chapter 82.32 RCW shall apply with respect to administration and collection by the Department of Revenue.

(3) All rules and regulations adopted by the Department of Revenue for the administration of Chapter 82.08 RCW are adopted and incorporated herein by reference.

(4) The Department of Revenue is authorized to prescribe and utilize such special forms and reporting procedures as the department may deem necessary and appropriate. (Ord. 1755 § 1, 1990).

3.93.060 Penalty for violation.

Any person, firm or corporation violating or failing to comply with the provisions of this chapter or any lawful rule or regulation adopted pursuant thereto, shall upon conviction be punished by a fine in a sum not to exceed $500.00. Each day of violation will be considered a separate offense. (Ord. 1755 § 1, 1990).

Chapter 3.94

DRUG BUY FUND

Sections:

3.94.010 Fund created.
3.94.030 Expenditures.
3.94.035 Fund replenishment.

3.94.010 Fund created.

There is created and established an imprest fund within the current expense fund to be designated as the "drug buy fund." This fund shall be in an amount not to exceeds $20,000. (Ord. 1850 § 1, 1991; Ord. 1830 § 1, 1991; Ord. 1320 § 1, 1983).

3.94.030 Expenditures.

The chief of police, or his designee, may authorize disbursements and expenditures from the drug buy fund solely for purposes of enforcing state statutes and city ordinances relating to controlled substances. The chief of police, or his designee, shall keep the following records with respect to all such disbursements and expenditures:

(1) The names and addresses of all persons to whom funds are disbursed;

(2) A description of the use of such funds;

(3) An accounting for all funds which are disbursed but not used. (Ord. 1320 § 3, 1983).

3.94.035 Fund replenishment.

When moneys are disbursed or expended from the drug buy fund, the fund shall be replenished at least monthly. The replenishment shall be by claims fund voucher and shall have attached appropriate receipts and/or other readily auditable documentation. Replenishment shall be made from budgeted appropriations in accordance with procedures established by the state auditor's office for petty cash funds. (Ord. 1830 § 3, 1991).

Chapter 3.95

CRIMINAL INVESTIGATIONS FUND

Sections:

3.95.010 Fund created.
3.95.030 Expenditures.
3.95.035 Fund replenishment.

3.95.010 Fund created.

There is created and established an imprest fund within the current expense fund to be designed as the "criminal investigations fund." This fund shall be in an amount not to exceed $5,000. (Ord. 1831, 1991).

3.95.030 Expenditures.

The chief of police, or his designee, may authorize disbursements and expenditures from the criminal investigations fund for the purpose of surveillance, prevention and investigation of violations of law. The chief of police, or his designee, shall keep as a minimum, the following records with respect to all such disbursements and expenditures:

(1) The names and addresses of all persons to whom funds are disbursed;

(2) A description of the use of such funds;

(3) An accounting for all funds which are disbursed but not used. (Ord. 1831, 1991).

3.95.035 Fund replenishment.

When moneys are disbursed or expended from the criminal investigations fund, the fund shall be replenished at least monthly. The replenishment shall be by claims fund voucher and shall have attached appropriate receipts and/or other readily auditable documentation. Replenishment shall be made from budgeted appropriations in accordance with procedures established by the state auditor's office for petty cash funds. (Ord. 1831, 1991).

Chapter 3.96

DONATIONS, DEVISES OR BEQUESTS

Sections:

3.96.010 City authorized to accept – Terms and conditions.
3.96.020 Finance director duties.

3.96.010 City authorized to accept – Terms and conditions.

Pursuant to RCW 35A.11.040, the city is authorized to accept any money or property donated, devised or bequeathed to it, and to carry out the terms of the donation, devise or bequest if within the powers granted by law. If no terms or conditions are attached to the donation, device or bequest, the city may expend or use the same for any municipal purpose. (Ord. 1343 § 1, 1984).

3.96.020 Finance director duties.

The city's finance director is authorized and directed to establish such funds and accounting procedures as may be necessary to carry out the terms or conditions of any donation, devise or bequest, in accordance with the laws of the state and requirements prescribed by the office of the State Auditor. (Ord. 1343 § 2, 1984).

Chapter 3.97

DRUG ENFORCEMENT FUND

Sections:

3.97.010 Fund created.
3.97.020 Sources of funds.
3.97.030 Expenditures.
3.97.040 Unexpended funds.

3.97.010 Fund created.

There is created and established a fund to be designated the drug enforcement fund. (Ord. 1884, 1992).

3.97.020 Sources of funds.

The drug enforcement fund shall include deposits from the following sources:

(1) All moneys and proceeds from the sale of property seized during drug investigations and forfeited pursuant to RCW 69.50.505 and other state and federal laws pertaining to drug enforcement.

(2) Cash that may be appropriated by the Marysville city council from the city's current expense fund. (Ord. 1884, 1992).

3.97.030 Expenditures.

This fund has been established for the purpose of accumulating funds for drug enforcement needs, drug awareness educational purposes and the purchase, lease and maintenance of equipment and other items necessary for drug enforcement by the Marysville police department. The moneys deposited in the drug enforcement fund shall be expended only for such purposes and for no other purpose when appropriated by the city council. (Ord. 1884, 1992).

3.97.040 Unexpended funds.

Any unexpected funds remaining in the drug enforcement fund at the end of any budget year shall not be transferred to the city's current expense fund or otherwise lapse; rather said unexpended funds shall be carried forward from year to year until expended for the purposes set forth in MMC 3.97.030. (Ord. 1884, 1992).

Chapter 3.98

BOND AND OBLIGATION REGISTRATION

Sections:

3.98.010 Findings.
3.98.020 Definitions.
3.98.030 Registration system.
3.98.040 Transfer restrictions.

3.98.010 Findings.

The city council finds that it is in the city's best interest to establish a system of registering the ownership of the city's bonds and obligations in the manner permitted by law. (Ord. 1405 § 2, 1984).

3.98.020 Definitions.

The following words shall have the following meanings when used in this chapter:

(1) "Bond" or "bonds" shall have the meaning defined in section 2(1), chapter 167, Laws of 1983, as the same may be from time to time amended.

(2) "City" means the city of Marysville, Washington.

(3) "Fiscal agencies" shall mean the duly appointed fiscal agencies of the state of Washington serving as such at any given time.

(4) "Obligation" or obligations" shall have the meaning defined in section 2(3), chapter 167, Laws of 1983, as the same from time to time may be amended.

(5) "Registrar" is the person or persons designated by the city to register ownership of bonds or obligations under this chapter. (Ord. 1405 § 1, 1984).

3.98.030 Registration system.

The city adopts the following system of registering the ownership of its bonds and obligations:

(1) Registration Requirement. All bonds and obligations offered to the public, having a maturity of more than one year and issued by the city after June 30, 1983, on which the interest is intended to be exempt from federal income taxation, shall be registered as to both principal and interest as provided in this chapter.

(2) Method of Registration. The registration of all city bonds and obligations required to be registered shall be carried out either by:

(a) A book entry system of recording the ownership of the bond or obligation on the books of the city or the fiscal agencies, whether or not a physical instrument is issued; or

(b) By recording the ownership of the bond or obligation and requiring as a condition of the transfer of ownership of any bond or obligation the surrender of the old bond or obligation and either the reissuance of the old bond or obligation or the issuance of a new bond or obligation to the new owners.

No transfer of any bond or obligation subject to registration requirements shall be effective until the name of the new owner and the new owner's mailing address, together with such other information deemed appropriate by the registrar, shall be recorded on the books of the registrar.

(3) Denominations. Except as may be provided otherwise by the ordinance authorizing their issuance, registered bonds or obligations may be issued and reissued in any denomination up to the outstanding principal amount of the bonds or obligations of which they are a part. Such denominations may represent all or a part of a maturity or several maturities and on reissuance may be in smaller amounts than the individual denominations for which they are reissued.

(4) Appointment of Registrar. Unless otherwise provided in the ordinance authorizing the issuance of registered bonds or obligations, the city treasurer shall be the registrar for all registered interest-bearing warrants, installment contracts, interest-bearing leases and other registered bonds or obligations not usually subject to trading and the fiscal agencies shall be the registrar for all other city bonds and obligations.

(5) Duties of Registrar.

(a) The registrar shall serve as the city's authenticating trustee, transfer agent, registrar and paying agent for all registered bonds and obligations for which he, she, or it serves as registrar and shall comply fully with all applicable federal and state laws and regulations respecting the carrying out of those duties.

(b) The rights, duties, responsibilities and compensation of the registrar shall be prescribed in each ordinance authorizing the issuance of the bonds or obligations, which rights, duties, responsibilities and compensation shall be embodied in a contract executed by the city treasurer and the registrar, except in instances when the fiscal agencies serve as registrar, the city adopts by reference the contract between the state Finance Committee of the state of Washington and the fiscal agencies in lieu of executing a separate contract and prescribing by ordinance the rights, duties, obligations and compensation of the registrar. When the city treasurer serves as registrar, a separate contract shall not be required.

(c) In all cases when the registrar is not the fiscal agencies and the obligation is assignable, the ordinance authorizing the issuance of the registered bonds or obligations shall specify the terms and conditions of:

(i) Making payments of principal and interest;

(ii) Printing any physical instruments, including the use of identifying numbers or other designation;

(iii) Specifying record and payment dates;

(iv) Determining denominations;

(v) Establishing the manner of communicating with the owners of the bonds or obligations;

(vi) Establishing the methods of receipting for the physical instruments for payment of principal, the destruction of such instruments and the certification of such destruction;

(vii) Registering or releasing security interests, if any; and

(viii) Such other matters pertaining to the registration of the bonds or obligations authorized by such ordinance as the city may deem to be necessary or appropriate. (Ord. 1405 § 3, 1984).

3.98.040 Transfer restrictions.

Any physical instrument issued or executed by the city subject to registration under this chapter shall state on its face that the principal of and interest on the bonds or obligations shall be paid only to the owner thereof registered as such on the books of the registrar as of the record date defined in the instrument and to no other person, and that such instrument, either principal or interest, may not be assigned except on the books of the registrar. (Ord. 1405 § 4, 1984).

Chapter 3.99

KEN BAXTER SENIOR/COMMUNITY CENTER APPRECIATION FUND

Sections:

3.99.010 Created.
3.99.020 Administration.
3.99.030 Acceptance.
3.99.040 Use.
3.99.050 In-kind donations.

3.99.010 Created.

There is hereby established a special fund to be desginated the "Ken Baxter Senior/Community Center appreciation fund." The purpose of this fund is to provide for the deposit and financial administration, including project accounting, or monetary and nonmonetary donations to the city for the benefit of the Ken Baxter Senior/Community Center and the expenditure and proper use thereof. (Ord. 2227, 1999).

3.99.020 Administration.

The finance department shall have the responsibility for the financial administration of the fund and shall maintain separate records of accounts showing receipts and disbursements for all donations and for all projects assigned to the fund. The department may also establish rules and regulations for the administration of the fund. (Ord. 2227, 1999).

3.99.030 Acceptance.

Subject to MMC 3.96.010, the director of parks and recreation is hereby authorized to accept on behalf of the city all monetary donations to the fund. All donations accepted by the Ken Baxter/Community Center appreciation fund shall be deposited into the fund. Pursuant to MMC 3.96.020 the finance director shall establish a fund for the collection of monetary donations. (Ord. 2227, 1999).

3.99.040 Use.

In the event a donor has indicated a desire as to the use by the city of a donation, such donation shall, to the extent reasonably feasible, be assigned to a project consistent with the donor's desired use. If no desired use is stated, the parks and recreation advisory board will recommend use of the monetary funds. (Ord. 2227, 1999).

3.99.050 In-kind donations.

All nonmonetary donations intended for this fund with a current value greater than $25.00 and less than $999.00 must be approved by the director of parks and recreation. All nonmonetary donations and expenditures with the value of $1,000 or more must be approved by the city council. Department heads may recommend for approval in-kind donations supporting budget projects. The department will be required to detail all related future costs associated with the acceptance of the donations and submit a list of expenses to the approving authority with the donation request. All nonmonetary donations shall be accounted for by the parks and recreation department. (Ord. 2227, 1999).

Chapter 3.100

RETAINAGE BONDS

Sections:
3.100.010 Public works retainage bonds.

3.100.010 Public works retainage bonds.

(1) To the extent required by Chapter 60.28 RCW, the city shall release earned retained percentages held by the city at the request of a contractor provided the contractor first submits a bond that:

(a) Is substantially in the following form;

(b) Is approved by the city attorney;

(c) Is from a surety meeting the qualifications described in this section; and

(d) Otherwise complies with the requirements of this section.

(2) The bond shall be substantially in the following form:

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that [Contractor], a corporation organized under the laws of the State of _____, and registered to do business in the State of Washington as a contractor, as Principal, and [Surety], a corporation organized under the laws of the State of _____ and registered to transact business in the State of Washington as surety, as Surety, their heirs, executors, administrators, successors and assigns, are jointly and severally held and bound to the City of Marysville, Washington, hereinafter called "City", and are similarly held and bound unto the beneficiaries of the trust fund created by RCW Chapter 60.28, in the sum of _____ and ____/100's Dollars ($_____), the payment of which, well and truly to be paid, we bind ourselves, our heirs, executors and successors, jointly and severally, formally by these presents.

THE CONDITIONS OF THE ABOVE OBLIGATION ARE THAT:

WHEREAS, on [date], the Principal executed a contract (the "Contract") with the City known as:

Project Name: _____

Contract Number: _____

And,

WHEREAS, said Contract and RCW Chapter 60.28 require the City to withhold from monies earned by the Principal during the progress of the construction, hereinafter referred to as "earned retained funds"; and

WHEREAS, the Principal requested that the City release _____ and ___/100's Dollars ($_____) of the earned retained funds, as allowed under RCW Chapter 60.28;

NOW, THEREFORE, the condition of this obligation is such that the Surety is held and bound to the City to indemnify, defend and hold the City harmless from any and all loss, costs or damages that the City may sustain by reason of release of said earned retained funds to Principal, then this obligation to be null and void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, it is expressly understood and agreed that:

1. Any suit or action under this bond must be instituted within the time period provided by applicable law. The bond shall be subject to all claims and liens provided for by law or Contract against the earned retained funds and in the same manner and priority as set forth for retained percentages in RCW Ch. 60.28 and the Contract.

2. The Surety hereby consents to and waives notice of any extension in the time for performance of the Contract, assignment of obligations under the Contract, or Contract alteration, termination, amendment or change order.

3. Until written release of this obligation by the City, this bond may not be terminated or canceled by the Principal or Surety for any reason. Any extension of time for the Principal's performance on the Contract, assignment of obligations under the Contract, or Contract alteration, amendment or change order shall not release the Surety from its obligation under this bond.

4. RCW Ch. 60.28 authorizes the City to substitute a retainage bond in lieu of earned retained funds and the Surety hereby waives any defense that this bond is void or otherwise not authorized by law.

5. Any claim or suit against the City to foreclose the liens provided for by RCW Ch. 60.28 shall be effective against the Principal and Surety and any judgment under RCW Ch. 60.28 against the City shall be conclusive against the Principal and the Surety.

6. The laws of the State of Washington shall apply to the determination of the rights and obligations of the parties hereunder. Venue for any dispute or claim hereunder shall be the state courts of Washington in Snohomish County, Washington.

(3) The city attorney may, in his or her discretion, waive conditions of the bond as appropriate.

(4) The bond must be duly executed by the contractor and a surety that is (a) authorized to do business as a surety in the state of Washington and (b) rated at least "A" or better and with a numerical rating of no less than seven by A.M. Best Company. The bond must be accompanied by a fully executed power of attorney appointing the signer for the surety as the surety's attorney-in-fact. (Ord. 2408 § 1, 2002).

Title 4

ENFORCEMENT CODE

Chapters:

4.02 Enforcement Procedures

Chapter 4.02

ENFORCEMENT PROCEDURES

Sections:

4.02.010 Purposes.
4.02.020 Definitions.
4.02.030 Citizen complaints.
4.02.040 Penalties and enforcement.
4.02.050 Code enforcement procedures manual.

4.02.010 Purposes.

The purposes of this title are:

(1) To establish an efficient system to enforce the city of Marysville Municipal Code (MMC);

(2) To provide opportunity for a prompt hearing and decision on alleged violations of the MMC;

(3) To establish monetary penalties for violations of the MMC; and

(4) To abate/bring into compliance violations of the MMC. (Ord. 2045 § 1, 1995).

4.02.020 Definitions.

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

(1) "City" means the city of Marysville, Washington.

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

(3) "Hearing examiner" means the city of Marysville hearing examiner, codified by Chapter 2.70 MMC, or the examiner's duly authorized representative.

(4) "MMC" means the Marysville Municipal Code.

(5) "Permit" means any form of certificate, approval, registration, license or other written permission given to any person to engage in any activity as required by law, ordinance or regulation. The term "permit" shall not include preliminary or final plat approval or any rezone.

(6) "Person" as used in this title includes any natural person, organization, corporation or partnership and its agents, representatives or assigns.

(7) "Public nuisance" as used in this title is defined as a nuisance which affects equally the rights of an entire community or neighborhood, although the extent of the nuisance may be unequal. MMC 6.24.020(3) defines "nuisance." (Ord. 2045 § 1, 1995).

4.02.030 Citizen complaints.

(1) Written Complaint/Notice to Owner. On forms provided by city departments, any aggrieved person may file a written complaint with the director alleging that a violation of this title or other titles, chapters or sections of the MMC has occurred or may occur. 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. Each complaint shall state fully the causes and bases for the complaint and shall be filed with the appropriate department. 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.

(2) Hearing Before the Hearing Examiner. Within 60 days of completing and filing the complaint, the complainant may request, in writing, a hearing before the hearing examiner. As soon as the complaint is filed, the director shall cease all administrative action and schedule a hearing. The date of hearing shall be not more than 90 days from the receipt of the complaint. The person filing the complaint shall have the burden of demonstrating that a violation has occurred or may occur.

(3) Hearing Examiner's Decision. Within 10 city working days of the conclusion of the public hearing, the hearing examiner shall file a written decision with the department. The hearing examiner's decision shall be final with a right of appeal only to Snohomish County superior court as provided in subsection (4) of this section. The hearing examiner has the authority to award costs and expenses to the prevailing party and the city.

(4) Appeal to Snohomish County Superior Court. Within 10 city working days of the hearing examiner's written decision, a party may appeal the hearing examiner's decision to the Snohomish County superior court by filing a writ of review. In the event there is no appeal to superior court and the hearing examiner's decision becomes final, it shall be enforced pursuant to MMC 4.02.040(10). (Ord. 2045 § 1, 1995).

4.02.040 Penalties and enforcement.

(1) Director Authorized to Enforce Codes. The director is charged with enforcement of the provisions of this title.

(2) Violations. It shall be unlawful for any person to construct, enlarge, alter, repair, move,

demolish, use, occupy or maintain any use or cause the same to be done in violation of any of the provisions of this title or other titles, chapters or sections of the MMC. Any such violation as determined by the director is declared to be a public nuisance and shall be corrected by any reasonable and lawful means as provided in this section. In the event the penalties provided in this title conflict with any penalty provided in any other section, chapter or title of the Marysville Municipal Code, the penalty provisions of this title shall control.

(3) Director's Remedies. Upon finding a violation, the director may:

(a) Institute appropriate action or proceeding to require compliance with this title or to enjoin, correct or abate any acts or practices which constitute or will constitute a violation;

(b) Issue a temporary enforcement order pursuant to subsection (7) of this section;

(c) Abate the violation if corrective work is not commenced or completed within the time specified in a permanent enforcement order;

(d) Suspend or revoke any approvals or permits issued pursuant to this title, Title 5 (Business Regulations and Licenses), including without limitation §§ 5.02.140, 5.20.080, 5.52.090; Title 6 (Peace, Morals and Safety), including without limitation Chapter 6.24, Title 7 (Health and Sanitation), including without limitation §§ 7.04.010 – 7.04.100; Title 9 (Fire); Title 11 (Traffic), including without limitation § 11.36.040; Title 12 (Streets and Sidewalks), including without limitation §§ 12.08.140, 12.12, 12.20.010, 12.24, 12.36.020 – 12.36.030, 12.40.020 – 12.40.030; Title 14 (Water and Sewers), including without limitation §§ 14.15.170, 14.16.100, 14.16.140, 14.17.050; Title 16 (Building), Title 18 (Planning), Title 19 (Zoning), Title 20 (Subdivisions);

(e) Assess civil penalties after notice and order set forth in subsection (8)(b)(iv) of this section or recovered by legal action filing in Snohomish County superior court; and/or

(f) File a lien against the property for costs of abatement and/or civil fines.

(4) Violators Punishable by Criminal Fine and Imprisonment. As an alternative to any other remedy provided in this title or by law or other ordinance, any person willfully or knowingly violating any provision of this title or other titles, chapters or sections of the MMC, or amendments thereto, or any person aiding or abetting such violation is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed $1,000 and/or imprisonment for a term not to exceed 90 days. Each day such violation continues may be considered a separate offense.

(5) Inspections.

(a) Whenever the director has reasonable cause to believe that a violation has been or is being committed, the director or the director's duly authorized inspector may enter any building, structure or property at any reasonable time to inspect the use and perform any duty conferred on the director by this title.

(b) If the building, structure or property is occupied, the director shall first present identification credentials, state the reason for the inspection and demand entry. If consent to enter is not given and if:

(i) The director has reason to believe that the conditions create an imminent and irreparable hazard, then the director shall enter; or

(ii) The director has reason to believe that the conditions do not create an imminent and irreparable hazard, the director shall enter after first obtaining a civil search warrant.

(c) If the building, structure or property is not occupied, the director shall make a reasonable effort to locate the owner or other person(s) having control and request permission to enter. If the director is unable to locate the owner or person(s) having control, and if:

(i) The director has reason to believe that conditions therein create an immediate and irreparable hazard, the director shall enter; or

(ii) The director has reason to believe that the conditions do not create an imminent and irreparable hazard, the director shall enter after first obtaining a civil search warrant.

(6) Violators Punishable by Civil Penalties After Administrative Notice and Order.

(a) Director to Determine Violation and May Provide Enforcement Order. Within 30 days of notice of a potential violation, the director is authorized to and shall determine whether a violation has occurred and, if the director determines that a violation has occurred, shall issue a temporary or permanent enforcement order. The director shall notify the complainant, the owner or operator of the source of the violation, and the person in possession of the property or the person causing the violation of the director's determination in writing within three city working days of the determination. Service of the notice by first class and certified (return receipt requested) mail to the last known address of the complainant and violators shall be deemed effective notice (see subsection (3)(d) of this section).

(b) Director May Commence Administrative Notice. Additionally, whenever the director has reason to believe that a use or condition exists in violation of this title and that violation will be most promptly and equitably terminated by an administrative proceeding, the director may commence an administrative notice and order proceeding to cause assessment of a civil penalty, abatement or suspension of all activities, work or revocation of any approvals or permits issued pursuant to this title, Title 5 (Business Regulations and Licenses), including without limitation §§ 5.02.140, 5.20.080, 5.52.090; Title 6 (Peace, Morals and Safety), including without limitation Chapter 6.24, Title 7 (Health and Sanitation), including without limitation §§ 7.04.010 – 7.04.100; Title 9 (Fire); Title 11 (Traffic), including without limitation § 11.36.040; Title 12 (Streets and Sidewalks), including without limitation §§ 12.08.140, 12.12, 12.20.010, 12.24, 12.36.020 – 12.36.030, 12.40.020 – 12.40.030; Title 14 (Water and Sewers), including without limitation §§ 14.15.170, 14.16.100, 14.16.140, 14.17.050; Title 16 (Building), Title 18 (Planning), Title 19 (Zoning), Title 20 (Subdivisions).

(7) Temporary Enforcement Order.

(a) The director may cause a temporary enforcement order ("Order") to be posted on the subject property or served on persons engaged in any work or activity in violation of this title.

(b) The order shall require immediate cessation of such work or activities and may temporarily suspend any approval or permit issued under this title, Title 5 (Business Regulations and Licenses), including without limitation §§ 5.02.140, 5.20.080, 5.52.090; Title 6 (Peace, Morals and Safety), including without limitation Chapter 6.24, Title 7 (Health and Sanitation), including without limitation §§ 7.04.010 – 7.04.100; Title 9 (Fire); Title 11 (Traffic), including without limitation § 11.36.040; Title 12 (Streets and Sidewalks), including without limitation §§ 12.08.140, 12.12, 12.20.010, 12.24, 12.36.020 – 12.36.030, 12.40.020 – 12.40.030; Title 14 (Water and Sewers), including without limitation §§ 14.15.170, 14.16.100, 14.16.140, 14.17.050; Title 16 (Building), Title 18 (Planning), Title 19 (Zoning), Title 20 (Subdivisions).

(c) The order may be issued without written or oral notice and shall expire by its own terms in 10 days unless the director extends or issues and transmits a permanent enforcement order pursuant to subsection (8) of this section.

(d) The notice and order shall contain:

(i) The street address, when available, and a legal description of the real property;

(ii) A statement that the director has found the person to be in violation of this Title and a brief and concise description of the condition found to be in violation;

(iii) A statement of the corrective action to be taken;

(iv) A statement that the order shall expire by its own terms in 10 days unless extended in writing or a permanent order is issued;

(v) A statement that the violator may be subject to a civil penalty of $100.00 for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent.

(e) Withdrawal or Issuance of Additional Temporary Order. The director may withdraw a temporary order if compliance is achieved within 10 calendar days of posting or service thereof. If, after withdrawal, the violation is continued or repeated, the director may cause a second temporary order to be posted on the subject property or served on persons engaged in any work or activity in violation of this title. Any subsequent order involving the same violation shall be permanent.

(8) Permanent Enforcement Order.

(a) A permanent order shall be issued by the director and become final within 10 calendar days, unless written appeal is received asking for a hearing before the hearing examiner.

(b) The permanent enforcement order shall contain:

(i) The street address and, when available, a legal description of real property;

(ii) A statement that the director has found the person to be in violation of this title and a brief and concise description of the conditions found to be in violation;

(iii) A statement of the corrective action required to be taken. If the director has determined that corrective work is required, the order shall mandate that all required permits be secured and the work be physically commenced and completed within such time as the director determines is reasonable under the circumstances, but in no event shall such time exceed 90 days;

(iv) A statement that the violator may be subject to a civil penalty of $1,000 for each day that the violation continues and, if applicable, the conditions on which assessment of such civil penalty is contingent;

(v) Statements advising:

(A) If any required work is not commenced or completed within the time specified, the director shall proceed to abate the violation and cause the work to be done and charge the costs

thereof as a lien against the property and any other property owned by the person in violation and as a personal obligation of any person in violation; and

(B) If any assessed civil penalty is not paid, the director will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation; and

(C) The violator of the violator's right to appeal and the appeal process.

(c) Any order issued by the director pursuant to this title shall be final unless a timely appeal is filed.

(d) Service. Service of the permanent enforcement order shall be made upon all persons identified in the order either personally or by mailing a copy of such order by certified mail, postage prepaid, return receipt requested to the last known address. If the address of any such person cannot reasonably be ascertained, a copy of the order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this title. Service by certified mail in the manner provided in this section shall be effective on the date of postmark. The order may be, but is not required to be posted on the subject property.

(e) Supplemental Order. The director may at any time add to, rescind in part, or otherwise modify a permanent enforcement order.

(9) Appeal. A written appeal may be filed within 10 calendar days following issuance of a temporary or permanent order. The director shall prepare and transmit to the hearing examiner any appeal of a temporary or permanent enforcement order in which a hearing shall be scheduled within 60 days of the appeal date. Cost of the appeal shall be part of the decision. The hearing examiner's decision may be reviewed by an action for writ of review in the superior court of Snohomish County filed within 10 calendar days of the decision. If no appeal is filed in the required length of time, the hearing examiner's decision shall be final.

(10) Violation of Permanent Order. If, after any permanent order duly issued by the director or hearing examiner has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the director may:

(a) Cause such person to be prosecuted under the provisions of this title;

(b) Institute any appropriate action to collect a civil penalty assessed under this title;

(c) Abate the violation using the procedures of this title; and/or

(d) Pursue any other appropriate remedy at law or equity.

(11) Revocation or Suspension of Approvals or Permits. The director may permanently revoke or suspend any approval or permit issued under this title, Title 5 (Business Regulations and Licenses), including without limitation §§ 5.02.140, 5.20.080, 5.52.090; Title 6 (Peace, Morals and Safety), including without limitation Chapter 6.24, Title 7 (Health and Sanitation), including without limitation §§ 7.04.010 – 7.04.100; Title 9 (Fire); Title 11 (Traffic), including without limitation § 11.36.040; Title 12 (Streets and Sidewalks), including without limitation §§ 12.08.140, 12.12, 12.20.010, 12.24, 12.36.020 – 12.36.030, 12.40.020 – 12.40.030; Title 14 (Water and Sewers), including without limitation §§ 14.15.170, 14.16.100, 14.16.140, 14.17.050; Title 16 (Building), Title 18 (Planning), Title 19 (Zoning), Title 20 (Subdivisions), for any of the following reasons:

(a) Failure of the holder to comply with the requirements of such title; or

(b) Failure of the holder to comply with any order issued pursuant to this title; or

(c) Discovery by the director that an approval or a permit was issued in error or on the basis of incorrect information supplied to the city.

Such approval of permit revocation or suspension shall be carried out through the notice and order provisions of this section. The revocation or suspension shall be final within five working days of the conclusion of a hearing unless the hearing examiner renders a written decision modifying or denying the revocation or suspension.

(12) Lien.

(a) City Has Lien. The city of Marysville shall have a lien for any civil penalty imposed or for the cost of any work or abatement done pursuant to this title, or both, against the real property on which the civil penalty was imposed or any of the work of abatement was performed and against any other real property owned by any person in violation. The civil penalty shall be a joint and several obligation of all people found to be in violation. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on a parity.

(b) Director's Authority to Claim Lien. The director shall cause a claim for lien to be filed for record with the auditor within 90 days from the date the civil penalty is due or within 90 days from

the date of completion of the work or abatement performed by the city of Marysville pursuant to this title.

(c) Notice of Lien. The notice and order of a director pursuant to this title shall give notice to the owner that a lien for the civil penalty or the cost of abatement, or both, may be claimed by the city. Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested.

(d) Contents of Lien. The claim of lien shall contain the following:

(i) The authority for imposing a civil penalty or proceeding to abate the violation, or both;

(ii) A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, the time the work was commenced and completed and the name of the persons or organizations performing the work;

(iii) A legal description of the property to be charged with the lien;

(iv) The name of the known or reputed owner; and

(v) The amount, including lawful and reasonable costs, for which the lien is claimed.

(e) Verification of Lien. The lien shall be verified by the director to the effect that the director believes that the claim is just.

(f) Filing of Lien. The lien shall be recorded with the Snohomish County auditor.

(g) Duration of Lien. No lien created under this title shall bind the property for a period longer than three years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.

(h) Foreclosure of Lien. The lien may be foreclosed by a civil action in Snohomish County superior court.

(i) Removal of Lien. All liens shall be removed by the city of Marysville when all conditions placed upon the violator(s) by a notice and order or by the hearing examiner have been satisfied. (Ord. 2045 § 1, 1995).

4.02.050 Code enforcement procedures manual.

The code enforcement officer shall have the authority to adopt and adhere to a code enforcement procedures manual which shall be available for public inspection and copying during regular business hours. (Ord. 2045 § 1, 1995).

Title 5

BUSINESS REGULATIONS AND LICENSES[1]

Chapters:

5.02 Business Licenses
5.20 Entertainment Clubs
5.24 For-Hire Vehicles
5.26 Prohibited Gambling Activities
5.32 Intoxicating Liquor
5.34 Malt Liquor by the Keg
5.46 Special Events
5.48 Strawberry Festival
5.52 Closing-Out and Special Sales
5.60 Itinerant Merchants
5.64 Pawnbrokers and Secondhand Dealers
5.70 Cable System Regulations
5.71 Cable Operator Customer Service Standards
5.72 Massage Businesses and Practitioners
5.76 Aircraft Landing Permits
5.80 Adult Motion Picture Theaters, Adult Drive-In Theaters and Adult Cabarets
5.84 Adult Panorams
5.88 Bikini Clubs
5.92 Public Bath Houses, Body Shampoo Parlors and Tattoo Parlors
5.96 Body Studios

1. Garbage collection business, see MMC Title 7; plumbing business, license, see Chapter 16.08 MMC; gas-fitting business, licenses, see MMC Title 15.

Chapter 5.02

BUSINESS LICENSES

Sections:

5.02.010 Definitions.
5.02.020 Business license required.
5.02.030 Exempt businesses.
5.02.040 Application procedure.
5.02.045 Procedures for issuance or denial of license.
5.02.050 Term of license.
5.02.060 Procedure for renewing licenses.
5.02.070 Fees – Penalty.
5.02.080 Ineligible activities.
5.02.090 Standards of conduct.
5.02.100 New location.
5.02.110 Suspension or revocation of licenses.
5.02.130 Sale or transfer of business – New license required.
5.02.140 Penalties for violation.

5.02.010 Definitions.

Except as otherwise expressly declared or clearly apparent from the content in which used, the following definitions shall be applied in construing the provisions of this chapter:

(1) "Person" means one or more natural persons of either sex, corporations, partnerships, associations or other entities capable of having an action at law brought against such entity, but shall not include employees of persons licensed pursuant to this chapter.

(2) "Business" means all services, activities, occupations, pursuits or professions located and/or performed within the city with the object of pecuniary gain, benefit or advantage to the person, or to another person or class, directly or indirectly, whether part-time or full-time. This definition includes, without limitation, home occupations, peddlers, hawkers, and the rental of four or more residential dwelling units. It also includes the activities of businesses which are located outside the city where sales or services are solicited by the physical presence of business representatives inside the city, and it includes general and specialty contractors with offices outside the city who do work on property located inside the city. Businesses which are exempt from this chapter are listed in MMC 5.02.030. (Ord. 1717, 1989; Ord. 1498 § 2, 1986).

5.02.020 Business license required.

It is unlawful for any person to conduct, operate, engage in or practice any business in the city without having first obtained a business license from the city. If more than one separate business is conducted on a single premises, a separate license shall be required for each such business. If a business actively operates from more than one location in the city, a separate license shall be required for each location. (Ord. 1718, 1989; Ord. 1498 § 2, 1986).

5.02.030 Exempt businesses.

The following businesses shall be exempt from the licensing provisions of this chapter:

(1) Nonprofit activities carried on by religious, charitable, benevolent, fraternal or social organizations;

(2) Public utility companies;

(3) Any instrumentality of the United States, state of Washington, or political subdivision thereof with respect to the exercise of governmental functions;

(4) National banks, state banks, trust companies, mutual savings banks, credit unions and building and loan associations, with respect to their banking business, trust business, or saving and loan business;

(5) Farmers or gardeners selling their own unprocessed farm products raised or grown exclusively upon lands owned or occupied by them;

(6) Garage sales conducted on residential premises in compliance with the city zoning code;

(7) Businesses where the sale, or contract for services, occurred on business premises outside of the city, and the only event occurring within the city was the mere delivery of the goods or services to the customer or client;

(8) Any business which is owned and operated by a person under the age of 18, and which does not generate a net income of more than $1,500 per year;

(9) Any business which operates only during the annual Strawberry Festival, and which is authorized by the entity which holds the Strawberry Festival Master Permit. (Ord. 2437, 2002; Ord. 1701 § 1, 1989; Ord. 1498 § 2, 1986).

5.02.040 Application procedure.

(1) No business license shall be issued or renewed except upon written application made to the city clerk. Each application shall be signed by the person who intends to conduct, operate or engage in the business for which the license is to be issued, and shall state the nature of the business, its

proposed address and telephone number, the names and addresses of all owners of the business (or their registered agent), and such other information as may be required by the city clerk. A nonrefundable application fee, in an amount equal to the annual license fee, shall accompany the application. In the event that the license is granted, the application fee shall be credited toward payment of the annual license fee.

(2) If the applicant is a partnership, the application must be made and signed by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, partnership or nonresident individual, by the resident agent or local manager of the corporation, partnership or individual.

(3) If the business premises are to be located on property owned by another person, the application shall include written evidence of the property owner's consent.

(4) If the applicant or the business applying for a license is regulated, licensed or certified by any other governmental agency or professional association, the application must include written evidence of good standing with said regulatory authority. In such cases the continuing validity of the city business license shall be conditioned upon compliance with the requirements of the regulatory authority.

(5) Neither the filing of an application for a license or the renewal thereof, nor any payment of any application or renewal fee, shall authorize a person to engage in or conduct a business until such license has been granted or renewed. (Ord. 1751 §§ 1, 2, 1990; Ord. 1701 § 1, 1989; Ord. 1498 § 2, 1986).

5.02.045 Procedures for issuance or denial of license.

After receiving a complete application for a business license the city shall follow the following procedures:

(1) The city clerk shall forward copies of the application to appropriate city officials for their comments regarding compliance with regulations under their jurisdiction. The city clerk shall consider all materials and comments submitted and shall issue or deny the license within 20 working days after the date on which a completed application was filed unless the applicant agrees to an extension of said time period in writing.

(2) A business license may only be denied by the city clerk on one or more of the following grounds:

(a) If the business or the premises on which it is located do not comply with all applicable regulatory codes of the city, the Snohomish health district and the state of Washington;

(b) If the application is incomplete or if it contains any material misrepresentation;

(c) If the application does not propose adequate measures for the protection of public health, safety and welfare in terms of pedestrian and vehicular traffic control, security, avoidance of public nuisances and avoidance of consumer fraud.

(3) If the city clerk denies a license, written notice of said denial, stating the reasons therefor, shall be sent to the applicant within one working day thereafter. The applicant shall have a period of 10 working days after the date of license denial to appeal the same to the city council. Upon receiving written notice of appeal the city council shall hold a public hearing within 21 days thereafter to consider, de novo, whether to issue or deny the license. The applicant shall be given not less than seven days' advance written notice of the hearing. The decision of the city council shall be announced at the conclusion of the hearing and shall be final, subject only to a petition for writ of certiorari being filed with the Snohomish County Superior Court within 14 days following the date of the city council's decision. (Ord. 1751 § 3, 1990; Ord. 1701 § 2, 1989).

5.02.050 Term of license.

All business licenses issued pursuant to the provisions of this chapter shall be valid for a period of one year after the receiving date is stamped on the application at City Hall; all renewals thereafter shall be for a period of one year commencing on the anniversary of said receiving date. (Ord. 1701 § 3, 1989; Ord. 1498 § 2, 1986).

5.02.060 Procedure for renewing licenses.

All business licenses issued pursuant to the provisions of this chapter may be renewed by following the procedures specified above for original applications; provided, that application forms for renewals may be abbreviated by only requesting updated or changed information. (Ord. 1701 § 4, 1989; Ord. 1498 § 2, 1986).

5.02.070 Fees – Penalty.

(1) The annual fee for each business license required by this chapter, and each renewal thereof, shall be as follows:

(a) All new businesses: $50.00;
(b) Renewals: $40.00;
(c) Home occupation renewals: $35.00;
(d) Short-term businesses: $7.00 per day.

(2) There shall be assessed a late payment penalty of $20.00 for each 30 days of delinquency after a license fee or renewal fee is due. This penalty shall be added to the license fee.

(3) Any business relocating to another address in the city shall pay an administrative transfer fee of $5.00 to have its business license reissued to reflect the new address. (Ord. 2580, 2005; Ord. 2566, 2005; Ord. 2340 § 1, 2000; Ord. 2288 § 1, 1999; Ord. 1701 § 5, 1989; Ord. 1498 § 2, 1986).

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5.02.080 Ineligible activities.

Notwithstanding any other provisions of this chapter, a license hereunder may not be issued to or held by any person who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the city or the statutes of the state of Washington or any other applicable law or regulation. The granting of a business license shall not authorize any person to engage in any activity prohibited by a federal, state or local law or regulation. (Ord. 1498 § 2, 1986).

5.02.090 Standards of conduct.

Every licensee under this chapter shall:

(1) Permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter;

(2) Comply with all federal, state and city statutes, laws, regulations and ordinances relating to the business premises and the conduct of the business thereon;

(3) Refrain from unfair or deceptive acts or practices, or consumer fraud, in the conduct of the business, and avoid maintaining a public nuisance on the business premises;

(4) Refrain from operating the business after expiration of a license or during the period that the license may be suspended or revoked. (Ord. 1498 § 2, 1986).

5.02.100 New location.

A licensee shall have the right to change the location of the licensed business. Prior to such a change, the licensee shall notify the city clerk, in writing, and shall pay the administrative transfer fee specified above. (Ord. 1498 § 2, 1986).

5.02.110 Suspension or revocation of licenses.

(1) The city council may, at any time, suspend a business license whenever the licensee, or any manager, officer, director, agent or employee of the licensee, has caused, permitted or knowingly done any of the following:

(a) Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances in a way which relates to or affects public health or safety on the business premises;

(b) Failed to comply with the standards of conduct specified in MMC 5.02.090.

Such suspension shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that the same will not recur, as determined by the city council.

(2) The city council may, at any time, revoke a business license on any one or more of the following grounds:

(a) Whenever the city learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the city, in connection with any application for a business license or any renewal thereof;

(b) Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;

(c) Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city law or ordinance;

(d) Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly engages in unfair or deceptive acts or practices in the conduct of the business;

(e) Whenever operation of the business constitutes a public nuisance which endangers persons or property.

(3) Whenever the city clerk determines that there is probable cause for suspending or revoking a business license, the clerk shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The notice shall also specify that a hearing shall be conducted by the city council at a time and date denominated in the notice, not more than 21 days thereafter, to determine whether or not the license should be suspended or revoked. The notice shall be mailed to the licensee at least five days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision of the city council shall be announced at the conclusion of the hearing and shall be final, subject only to a petition for writ of certiorari being filed with the Snohomish County Superior Court within 14 days following the date of the city council's decision. (Ord. 1701 § 6, 1989; Ord. 1498 § 2, 1986).

5.02.130 Sale or transfer of business – New license required.

Upon the sale or transfer of any business which is licensed pursuant to this chapter, the license issued to the prior owner shall automatically expire on the date of such sale or transfer and the new owner shall apply for and obtain a new business license prior to engaging in, conducting or operating the business. (Ord. 1498 § 2, 1986).

5.02.140 Penalties for violation.

(1) Violations of, or failure to comply with, any provision of this chapter, shall constitute a civil infraction and any person found to have violated any provision of this chapter is punishable by a monetary penalty of not more than $100.00 for each such violation. Each day that a violation continues shall constitute a new and separate infraction.

(2) The imposition of a penalty for violation of this chapter shall be in addition to any other penalties provided for in any other ordinances of the city or any other ordinances or laws applicable to the violation, and any premises upon which a business is operated in violation of this chapter is hereby declared to be a public nuisance.

(3) Any license fee or penalty which is delinquent or unpaid shall constitute a debt to the city and may be collected by a court proceeding in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

(4) The city shall not enter into any contract or conduct any trade or commerce with any business which fails to comply with this chapter. (Ord. 1498 § 2, 1986).

Chapter 5.20

ENTERTAINMENT CLUBS

Sections:

5.20.010 Definitions.
5.20.020 Entertainment club license required.
5.20.030 License application procedures.
5.20.040 Procedures for issuance or denial of license.
5.20.050 Operating rules and regulations.
5.20.055 Restrictions on multi-use facilities.
5.20.060 Access by police officers.
5.20.070 Checking the age of patrons.
5.20.075 Suspension or revocation of licenses.
5.20.080 Penalties for violation.

5.20.010 Definitions.

For the purposes of this chapter, and unless the context plainly requires otherwise, the following definitions are adopted:

(1) (a) "Entertainment club" means commercial premises which are open to the public, the primary function of which is to offer patrons an opportunity to engage in social activities such as dancing, or the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers. As an incidental function an entertainment club may sell and/or serve food and beverages to its patrons.

(b) The term "entertainment club" does not include the following: premises which serve alcoholic beverages and which are under the jurisdiction of the Washington State Liquor Control Board; theaters where the patrons sit in parallel rows of fixed seats; full-service restaurants where the only entertainment consists of prerecorded background music which is incidental to the primary function of serving food; outdoor performances; a banquet, party or celebration conducted for invited guests which is not open to the public; dances or events sponsored and operated by a governmental entity, an accredited educational institution, or a nonprofit religious, charitable, benevolent, fraternal, or social organization which is recognized by the United States of America as being exempt from federal taxation; an adult motion picture theater, adult drive-in theater, and/or adult cabaret as defined by Chapter 5.80 MMC; an adult panoram establishment as defined by Chapter 5.84 MMC; a bikini club as defined by Chapter 5.88 MMC; a public bath house as defined by Chapter 5.92 MMC; or a body shampoo parlor as defined by Chapter 5.92 MMC.

(2) "Club premises" means any place where an entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.

(3) "Teen club" means any entertainment club which permits the entry of persons under the age of 21 years.

(4) "Adult club" means any entertainment club which restricts its admission to persons age 21 years and over. This term does not include facilities regulated under any of the following chapters of the Marysville Municipal Code: Chapter 5.80, 5.84, 5.88, or 5.92.

(5) "Person" means one or more natural persons of either sex, corporations, partnerships, associations, or other entities capable of having an action at law brought against such entity. (Ord. 2070 § 2, 1996; Ord. 1645 § 1, 1988; Ord. 1636 § 2, 1988).

5.20.020 Entertainment club license required.

It is unlawful for any person to own, lease, operate, manage or maintain an entertainment club, in the city without first obtaining an entertainment club license from the city. An entertainment club license is a form of business license as referred to in Chapter 5.02 MMC, and except as modified herein by this reference. For multi-use facilities which include an entertainment club, a separate and additional license must be issued for the entertainment club operation. (Ord. 1645 § 2, 1988; Ord. 1636 § 2, 1988).

5.20.030 License application procedures.

In addition to the application procedures referred to in MMC 5.02.040, an applicant for an entertainment club license shall provide the following:

(1) A written statement setting forth all measures proposed to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that the ages of patrons admitted to the club will be monitored;

(2) A statement electing whether the entertainment club will be operated either exclusively as a teen club or exclusively as an adult club, and a statement of the proposed schedule of operating hours and days;

(3) A statement of whether the applicant, or the applicant's officers, directors, partners or any other person involved in the operation or management of the entertainment club has been convicted within the preceding five years of any crimes involving firearms, controlled substances, sexual offenses, prostitution, assault, or contributing to the delinquency of a minor. (Ord. 1636 § 2, 1988).

5.20.040 Procedures for issuance or denial of license.

After receiving a complete application for an entertainment club license, as specified in MMC 5.20.030, the city shall follow the following procedures:

(1) The city clerk shall forward copies of the application to appropriate city officials for their comments regarding compliance with regulations under their jurisdiction. The city clerk shall consider all materials and comments submitted and shall issue or deny the license within 10 working days after the date on which a completed application was filed unless the applicant agrees to an extension of said time period in writing.

(2) An entertainment club license may only be denied by the city clerk on one or more of the following grounds:

(a) If the business premises do not comply with all applicable regulatory codes of the city, the Snohomish health district and the state of Washington relating to public health, safety and welfare;

(b) If the application is incomplete or if it contains any material misrepresentation;

(c) If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, and the monitoring of the ages of patrons admitted to the club.

(3) If the city clerk denies a license, written notice of said denial stating the reasons therefor shall be sent to the applicant within one working day thereafter. The applicant shall have a period of 10 working days after the date of license denial to appeal the same to the city council. Upon receiving written notice of appeal the city council shall hold a public hearing within 21 days thereafter to consider, de novo, whether to issue or deny the license. The applicant shall be given not less than seven days' advance notice of the hearing. The decision of the city council shall be announced at the conclusion of the hearing and shall be final, subject only to a petition for writ of certiorari being filed with the Snohomish County Superior Court within 14 days following the date of the city council's decision. (Ord. 1671 § 1, 1989; Ord. 1636 § 2, 1988).

5.20.050 Operating rules and regulations.*

The following operating rules and regulations shall apply to all entertainment clubs in the city:

(1) The standards of conduct applicable to all businesses in the city, as specified in MMC 5.02.090, shall apply to entertainment clubs.

(2) Persons of the following ages shall not be permitted to enter or remain on the premises of a teen club:

(a) Under the age of 15 years unless accompanied by a parent or legal guardian;

(b) Twenty-one years of age or older except for bona fide employees or entertainers hired by the licensee to work in the club.

(3) No person under the age of 21 years shall be permitted to enter or remain on the premises of an adult club unless accompanied by a parent or legal guardian, except for entertainers hired by the licensee to work in the club.

(4) Teen clubs shall be operated only on Friday and Saturday nights, and shall close at 1:00 a.m.; provided, however, during summer vacation when public schools are not in session, teen clubs may also operate on Wednesday nights; provided further, teen clubs may operate on any night when the following day is a school holiday which is observed by the public school system.

(5) Adult clubs may operate any night of the week and shall close at 2:00 a.m.

(6) It shall be the obligation of the licensee to employ an adequate number of qualified security personnel who will be present on club premises during all operating hours to maintain peace and order and to ensure compliance with the laws of the state of Washington and the city of Marysville which are applicable to the club premises. If the police chief determines that the club operation is directly resulting in an increased demand for police services in the vicinity of the club, the police chief may require the licensee to augment its private security force by hiring commissioned police officers with arrest authority in the city of Marysville to patrol said vicinity during club operating hours.

(7) It shall be the obligation of the licensee to insure that no alcoholic beverages or controlled substances are offered for sale or consumed on the club premises.

(8) It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.

(9) It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for use by the public. Such illumination shall be not less than 10 foot-candles at floor level at all times when the premises are open to the public or when any member of the public is permitted to enter and remain therein.

(10) It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any patrons of the club on club premises, or the immediate vicinity of the same. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.

(11) It shall be the obligation of the licensee to clean up all litter resulting from club operations. The cleanup shall occur within eight hours after the end of each day's operation and shall extend for a two-block radius around the club.

(12) No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the club unless that person pays a readmission fee equal to the original price of admission. (Ord. 2244 § 1, 1999; Ord. 1671 § 2, 1989; Ord. 1636 § 2, 1988).

*Code reviser's note: Ordinance 2244, Section 2, as amended by Ordinance 2291, provides:

"The language amendments to MMC 5.20.050(2)(a) and MMC 5.20.050(4) shall continue in effect for a period of 12 months from the effective date of this ordinance and shall expire on April 5, 2000 unless the Marysville City Council takes action to extend said amendments. This Ordinance shall be in effect from and after October 5, 1999."

5.20.055 Restrictions on multi-use facilities.

(1) The premises where a teen club is located shall not be used, at any time, as an adult club, or an adult entertainment facility, or a premises which is licensed to serve alcoholic beverages.

(2) A teen club may only be located on the same premises with another licensed business if:

(a) All businesses on the premises comply with the operating rules and regulations of this chapter relating to teen clubs; or

(b) The teen club is physically segregated from the space used by the other businesses and has a separate entrance into the building which is exclusively for the use of its patrons; or

(c) Only one business operates at a time on the premises, and the premises are closed altogether for not less than one hour between the close of one business operation and the opening of another. (Ord. 1671 § 3, 1989; Ord. 1645 § 4, 1988).

5.20.060 Access by police officers.

All peace officers of the city shall have free access to all entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 1636 § 2, 1988).

5.20.070 Checking the age of patrons.

(1) It is the responsibility of the licensee to require picture identification, or reasonable equivalent, showing the age of each person admitted to an entertainment club. It is unlawful for any person to knowingly or recklessly allow a person to enter or remain on the premises of an entertainment club in violation of the provisions of this chapter.

(2) It is unlawful for any person to affirmatively misrepresent his or her age for the purpose of obtaining admission to, or remaining at, an entertainment club in violation of the provisions of this chapter. (Ord. 1636 § 2, 1988).

5.20.075 Suspension or revocation of licenses.

(1) The city council may, at any time, suspend an entertainment club license whenever the licensee, or any manager, officer, director, agent, or

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employee of the licensee has caused, permitted or knowingly done any of the following:

(a) Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances in a way which relates to or affects public health or safety on the entertainment club premises;

(b) Failed to comply with the operating rules and regulations of entertainment clubs specified in MMC 5.20.050.

Such suspension shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that the same will not reoccur, as determined by the city council.

(2) The city council may, at any time, revoke an entertainment club license on any one or more of the following grounds:

(a) Whenever the city learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the city, in connection with any application for the entertainment club license or any renewal thereof;

(b) Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;

(c) Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance;

(d) Whenever operation of the entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.

(3) Whenever the city clerk determines that there is probable cause for suspending or revoking an entertainment club license, the clerk shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The notice shall also specify that a hearing shall be conducted by the city council at a time and date denominated in the notice, not more than 21 days thereafter, to determine whether or not the license should be suspended or revoked. The notice shall be mailed to the licensee at least five days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision of the city council shall be announced at the conclusion of the hearing and shall be final, subject only to a petition for writ of certiorari being filed with the Snohomish County Superior Court within 14 days following the date of the city council's decision. (Ord. 1677 § 1, 1989; Ord. 1671 § 4, 1989).

5.20.080 Penalties for violation.

The penalties for violating, or failing to comply with, any provision of this chapter are specified in MMC 5.02.140, and the same are incorporated herein by this reference. (Ord. 1636 § 2, 1988).

Chapter 5.24

FOR-HIRE VEHICLES

Sections:

5.24.010 Definitions.
5.24.020 For-hire vehicle license required.
5.24.030 For-hire vehicle license application.
5.24.040 Criminal record.
5.24.050 Liability insurance.
5.24.060 Issuance of for-hire vehicle license.
5.24.070 License fees.
5.24.080 Driver's permit – Required.
5.24.090 Driver's permit – Application.
5.24.100 Issuance of driver's permit.
5.24.110 Driver's permit – Display.
5.24.120 Vehicle equipment.
5.24.130 Vehicle markings.
5.24.140 Rate schedule.
5.24.150 Call record required – Inspection.
5.24.160 Direct route required.
5.24.170 Receipts.
5.24.180 Fraud or refusal to pay fare.
5.24.190 Loading and discharging passengers.
5.24.200 Parking restriction.
5.24.210 Number of passengers restricted.
5.24.220 Prohibited acts of drivers.
5.24.230 Public service requirements.
5.24.240 Suspension or revocation of license.
5.24.250 Violation – Penalty.

5.24.010 Definitions.

The following words and phrases when used in this chapter have the meanings as set out in this section:

(1) "Convalescent coaches" means motor vehicles for hire designed for the transportation of handicapped persons who by reason of physical or mental infirmity may not be conveniently transported on public mass transportation vehicles or in taxicabs or who cannot drive their own automobile. The patients transported by such vehicles shall be limited to the following classes of patients:

(a) Patients transported by wheel chair must be able to get into the chair with the help of one person;

(b) Patients must be stable and able to take care of themselves;

(c) Patients must not be incapacitated by medication nor need oxygen or aid en route;

(d) Litter patient may be transported if he meets requirements specified in paragraphs (b) and (c) of this subsection.

(2) "For-hire vehicle" means and includes every motor vehicle used for the transportation of passengers for hire, and not operated exclusively over a fixed and defined route. This term shall also include motor vehicles designated as "taxicabs" and "convalescent coaches".

(3) "Manifest" means a daily record prepared by a taxicab driver of all trips made by said driver showing time and place of origin, destination, number of passengers and the amount of the fare of each trip.

(4) "Person" includes an individual, a corporation or other legal entity, a partnership and any unincorporated association.

(5) "Rate card" means a card issued by the city clerk for display in each taxicab which contains the rates of fare then in force.

(6) "Waiting time" means the time when a vehicle for hire is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or default of a passenger or passengers. (Ord. 1143 § 2, 1980).

5.24.020 For-hire vehicle license required.

It is unlawful to operate any motor vehicle for hire, including taxicabs and convalescent coaches, over or upon or along any of the streets or alleys of the city without having procured a for-hire vehicle license from the city clerk. (Ord. 1143 § 2, 1980).

5.24.030 For-hire vehicle license application.

Applicants for for-hire vehicle licenses shall furnish the following information:

(1) The financial status of the applicant including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments;

(2) The experience of the applicant in the transportation of passengers;

(3) Any facts which establish that public convenience and necessity require the granting of the license;

(4) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals;

(5) For each for-hire vehicle, the company vehicle number therefor, the make, model and identifying color scheme, monogram or insignia, and serial number of the vehicle;

(6) If the applicant is a corporation, it shall accompany the application with a list of the names and addresses of all officers, directors and stockholders;

(7) The criminal record for the past five years relating to crimes of moral turpitude and fraud, for

each and every owner or manager of the business;

(8) Such further information as the city clerk may require. (Ord. 1143 § 2, 1980).

5.24.040 Criminal record.

No for-hire vehicle license shall be issued if the applicant, owner or manager of the business has been convicted of a crime of moral turpitude, or one involving intent to defraud, within the preceding five years. (Ord. 1143 § 2, 1980).

5.24.050 Liability insurance.

(1) Every applicant shall file with the city clerk proof of a current and subsisting policy or policies of public liability insurance, approved as to sufficiency by the city clerk, and as to form by the city attorney, issued by an insurance company or companies authorized to do business in the state, providing liability insurance coverage for each and every vehicle for hire owned, operated and/or leased by the applicant. Such insurance shall be in the sum of $100,000 for the injury or death of one person, or $300,000 for the injury or death of more than one person in any one accident, and $50,000 for property damage.

(2) Every such policy of insurance shall continue to the full amount thereof notwithstanding any recovery thereon and shall provide that the liability of the insurer shall not be affected by the insolvency or bankruptcy of the insured. The policy shall be for the benefit of any and all judgment creditors. Each insurance policy required hereunder shall extend for the period covered by the license applied for and the insurer shall be obliged to give not less than 10 days' written notice to the city clerk in the event of any change or cancellation. (Ord. 1143 § 2, 1980).

5.24.060 Issuance of for-hire vehicle license.

(1) If the city clerk finds that an application for a for-hire vehicle license meets all of the requirements of this chapter, said application shall be submitted to the city council for final determination. Within 30 days thereafter the city council shall set a date for consideration of said application and shall notify the applicant of said date.

(2) The city council shall issue a for-hire vehicle license to the applicant only upon an affirmative finding of the following facts:

(a) That the applicant is fit, willing and able to perform public transportation services for the benefit of the citizens of Marysville, and to conform to the provisions of this chapter;

(b) That for-hire vehicle service of the size and description proposed by the applicant is required for public convenience and necessity;

(c) That additional for-hire vehicles in the city will create no adverse environmental or economic impacts. (Ord. 1143 § 2, 1980).

5.24.070 License fees.

(1) The license fees are fixed in the amounts shown in the following schedule:

(a) For-hire vehicle license: $20.00 per year for each business;

(b) Driver's permit: $40.00 for initial permit and $25.00 for renewal of permit.

(2) All fees shall be payable annually in advance and no pro-rated fee shall be allowed. (Ord. 1556, 1987; Ord. 1482 § 1, 1986; Ord. 1143 § 2, 1980).

5.24.080 Driver's permit – Required.

No person shall operate a motor vehicle for hire on the streets of the city and no person who owns or controls such vehicle for hire shall permit it to be so driven and no vehicle licensed by the city shall be so driven at any time for hire unless the driver of said vehicle shall have first obtained and shall have then in force a for-hire driver's permit issued under the provisions of this chapter. (Ord. 1143 § 2, 1980).

5.24.090 Driver's permit – Application.

An application for a for-hire driver's permit shall be filed with the city clerk on forms provided by the city. Such application shall be sworn to by the applicant and shall contain the following information:

(1) Names and addresses of four residents of the city who have known the applicant for a period of one year and who will vouch for the sobriety, honesty and general good character of the applicant;

(2) The experience of the applicant in the transportation of passengers;

(3) A concise history of his employment for the past five years;

(4) A picture of the applicant;

(5) Proof of the applicant's current status as a licensed driver in the state of Washington;

(6) The applicant's driving record for the past five years;

(7) The applicant's criminal record for the past five years, relating to abuse of alcohol and/or drugs, and crimes of moral turpitude and fraud. (Ord. 1143 § 2, 1980).

5.24.100 Issuance of driver's permit.

(1) No driver's permit shall be issued if the

applicant has been convicted of a crime relating to the use of alcohol and/or drugs, or a crime of moral turpitude or fraud within the preceding five years.

(2) No driver's permit shall be issued without approval of the chief of police.

(3) Upon finding that an applicant for a driver's permit meets the requirements of this chapter, the city clerk shall issue such a permit, which shall bear the name, address, age, signature and photograph of the applicant. Such a permit shall be in effect for the remainder of the calendar year and shall be subject to annual renewal. (Ord. 1143 § 2, 1980).

5.24.110 Driver's permit – Display.

Every driver licensed under this chapter shall post his driver's permit in such a place as to be in full view of all passengers while such driver is operating a vehicle for hire. (Ord. 1143 § 2, 1980).

5.24.120 Vehicle equipment.

Each vehicle for hire shall be equipped and maintained at all times by the operator thereof for safe and lawful operation and in accordance with the laws of the city and the state and shall be furnished with such equipment as the chief of police shall deem necessary for such safe operation. Any vehicle for hire may be inspected at any reasonable time by the chief of police or his representative. The chief of police shall, on application, and may periodically inspect each vehicle as to safety and cleanliness. (Ord. 1143 § 2, 1980).

5.24.130 Vehicle markings.

Each vehicle licensed shall have the word "taxicab," "convalescent coach," or other appropriate descriptive term painted in letters at least three inches high on both sides of the vehicle directly under the true or assumed name listed thereon. Each vehicle licensed shall have the company vehicle numbers painted on all four sides of the vehicle not less than four inches high. Words that might tend to deceive the public may not be used on any vehicle licensed under this chapter. No vehicle covered by the terms of this chapter shall be licensed which has a color scheme, identifying design, monogram or insignia design to imitate any color scheme or identifying design of any other operator in such a manner as to be misleading or deceiving to the public. (Ord. 1143 § 2, 1980).

5.24.140 Rate schedule.

Every person, firm or corporation operating a for-hire vehicle in the city shall file with the city clerk the schedule of rates to be charged for the operation of their vehicle within the city limits. It is unlawful for any person, firm or corporation to make any other charges, either more or less, for the services rendered by such person, firm or corporation than as set forth in the rate schedule. Such person, firm or corporation shall further cause to be posted in every vehicle a card containing a schedule of the rates. The card shall be posted in a prominent place in the vehicle and the chief of police shall have the power in his discretion to designate the place of posting in the vehicle and the size of the card; provided, that the filed rates shall not be changed until the proposed changes in rates are filed with the city clerk for a period of 30 days. (Ord. 1143 § 2, 1980).

5.24.150 Call record required – Inspection.

For-hire vehicle businesses shall keep at their business offices a chronological record showing each call for service which is ordered or made, and the name of the driver who responded thereto, the number of the vehicle, the time and place of the origin and of the end of each vehicle trip, and the fee charged, and shall upon request of any person paying a vehicle charge, furnish a receipt showing such information. Such records shall at all reasonable times be open to the inspection of the city clerk or chief of police or the agents of either. (Ord. 1143 § 2, 1980).

5.24.160 Direct route required.

Any driver of a vehicle for hire employed to carry passengers to a definite point shall take the most direct route possible that will carry the passengers safely and expeditiously to their destination. (Ord. 1143 § 2, 1980).

5.24.170 Receipts.

The driver of any vehicle for hire shall upon demand by the passenger render to such passenger a receipt of the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or motor number, amount of charge and date of transaction. (Ord. 1143 § 2, 1980).

5.24.180 Fraud or refusal to pay fare.

It is unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter after having hired the same and it is unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. (Ord. 1143 § 2, 1980).

5.24.190 Loading and discharging passengers.

Drivers of for-hire vehicles shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand sidewalk as nearly as possible or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except on one-way streets where passengers may be discharged on the right or left-hand sidewalk, or the side of the roadway in the absence of a sidewalk. (Ord. 1143 § 2, 1980).

5.24.200 Parking restriction.

No person or business entity holding a for-hire vehicle license shall allow, cause or permit more than two for-hire vehicles owned or controlled by it to be parked, unmanned, on the public streets of the city at any given time. (Ord. 1143 § 2, 1980).

5.24.210 Number of passengers restricted.

No driver shall permit more persons to be carried in a vehicle for hire as passengers than the rated seating capacity of his vehicle as stated in the license for said vehicle. A child in arms shall not be counted as a passenger. (Ord. 1143 § 2, 1980).

5.24.220 Prohibited acts of drivers.

It is unlawful for any driver of a for-hire vehicle to engage in selling intoxicating liquor or controlled substances, or to solicit business for any house of ill repute, or use his vehicle for any purpose other than the transporting of passengers. (Ord. 1143 § 2, 1980).

5.24.230 Public service requirements.

All persons engaged in the vehicle for hire business in the city operating under the provisions of this chapter shall render an overall service to the public desiring to use their vehicles for hire. Holders of licenses shall maintain a place of business and keep the same open for 24 hours a day for the purpose of receiving calls and dispatching vehicles. They shall answer all calls received by them for services inside the corporate limits of the city as soon as they can do so, and if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the said call can be answered and give the reason therefor. (Ord. 1143 § 2, 1980).

5.24.240 Suspension or revocation of license.

The city council may revoke or suspend any vehicle for hire driver's license or any driver's permit on the following grounds:

(1) A driver's conviction in any court of reckless driving, driving while under the influence of intoxicating liquor and/or drugs, or a judicial finding that a driver is a habitual traffic offender;

(2) A conviction of a driver, or an owner, operator or manager of a for-hire vehicle business, of a crime of moral turpitude or one involving intent to defraud;

(3) The charging of passengers more than the maximum fares provided for herein;

(4) The failure or refusal to provide overall service to the public, without cause. (Ord. 1143 § 2, 1980).

5.24.250 Violation – Penalty.

Any person willfully violating any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $500.00 or by imprisonment in jail for not more than six months, or by both such fine and imprisonment. Each day in which the violation continues shall constitute a separate offense. (Ord. 1143 § 2, 1980).

Chapter 5.26

PROHIBITED GAMBLING ACTIVITIES

Sections:

5.26.010 State law applicable.
5.26.015 Definition.
5.26.020 Violation – Penalty.

5.26.010 State law applicable.

Any license issued under the authority of state law to engage in any legal activity shall be legal authority to engage in the gambling activities for which the license was issued throughout the city, except that the city, in accordance with RCW 9.46.295, as the same now exists or may hereafter be amended, prohibits the following gambling activities within city:

(1) The conduct or operation of social card games as a commercial stimulant as defined in RCW 9.46.0217 and 9.46.0282.

(2) The conduct or operation of electronic scratch ticket games or electronic scratch ticket machines. (Ord. 2562 § 1, 2005; Ord. 2324 § 1, 2000).

5.26.015 Definition.

"Electronic scratch ticket game" or "electronic scratch ticket machine" means a scratch ticket lottery game, together with its respective operating system or systems, that is played in any electronic environment. A game has a specific set of rules including: the theme and types of symbols used; the total number of tickets in the game; the ratio or mix of winning and losing tickets; the prize structure, including number and dollar value of each prize; and the price of a single ticket. The game is played by use of computer hardware and software to manufacture, store, distribute, sell, and display scratch tickets to players. An electronic scratch ticket game or electronic scratch ticket machine includes: the licensed systems that are connected to an electronic central accounting, auditing, and communication computer system within the commissions's control; a cashless transaction system; player terminals with video displays that allow players to purchase chances and obtain game result information; a manufacturing computer that securely creates the finite set of chances used in the scratch ticket portion of the system; and a central computer containing an electronic accounting system. The electronic scratch ticket game or electronic scratch ticket machine contains pre-existing scratch tickets that are dispensed in an electronic format to players through the player terminals on an on-demand basis. (Ord. 2562 § 1, 2005).

5.26.020 Violation – Penalty.

Any violation of this chapter shall constitute a misdemeanor and shall be punishable by a fine not to exceed $1,000 and/or imprisonment of up to six months. (Ord. 2562 § 1, 2005; Ord. 2324 § 1, 2000).

Chapter 5.32

INTOXICATING LIQUOR

Sections:
5.32.010 Closing hours.

5.32.010 Closing hours.

No retail licensee, or employee thereof, shall sell, deliver, offer for sale, serve or allow to be consumed upon the licensed premises any liquor, nor permit the removal of any liquor from the licensed premises in any manner whatsoever between the hours of 2:00 a.m. and 6:00 a.m., except on New Year's Day when the hour of closing shall not be later than 3:00 a.m. (Ord. 1312, 1983; Ord. 599 § 1, 1967).

Chapter 5.34

MALT LIQUOR BY THE KEG

Sections:
5.34.010 Seller's duties.
5.34.020 Purchaser's duty.
5.34.030 Declaration and receipt.
5.34.040 Penalty.

5.34.010 Seller's duties.

Any person who sells or offers for sale the contents of kegs or other containers containing six gallons or more of malt liquor, or leases kegs or other containers which will hold six gallons of malt liquor, to consumers who are not licensed under Chapter 66.24 RCW shall do the following for any transaction involving said container:

(1) Require the purchaser of the malt liquor to sign declaration and receipt for the keg or other container and/or beverage in substantially the form provided herein;

(2) Require the purchaser to provide two pieces of identification, one of which is a motor vehicle operator's license, Washington State identification card, or military identification card;

(3) Require the purchaser to sign a sworn statement, under penalty of perjury, that:

(a) The purchaser is of legal age to purchase, possess or use malt liquor,

(b) That the purchaser will not allow any person under the age of 21 to consume the beverage except as provided by RCW 66.44.270,

(c) That the purchaser will not remove, obliterate, or allow to be removed or obliterated, the identification number affixed to the container;

(4) Require the purchaser to state the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located;

(5) Affix to each keg or container a numbered label, hereafter referred to as the identification number;

(6) Record the identification number, and any other number appearing on the keg or container, or any declaration or receipt of purchase;

(7) Retain the original copy of the declaration and receipt for a period of one year for inspection by any law enforcement agency. Such inspection shall be allowed upon request of a law enforcement officer having a reasonable belief that a violation of this chapter or related alcohol enforcement laws has or will occur;

(8) Provide a copy of the declaration and receipt to the purchaser;

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(9) Require the purchaser to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than five feet, and visible without physical barrier from such keg, during the time that the keg or other container is in the purchaser's possession and/or control. (Ord. 1462, 1986).

5.34.020 Purchaser's duty.

Any person who purchases the contents of kegs or other containers containing six gallons or more of malt liquor, or purchases or leases the container shall:

(1) Be of legal age to purchase, possess or use malt liquor;

(2) Not allow any person under the age of 21 to consume the beverage except as provided by RCW 66.44.270;

(3) Not remove, obliterate, or allow to be removed or obliterated, the numbered label affixed to the container;

(4) Not move, keep or store keg or its contents, except for transporting to and from distributor, at any place other than that particular address declared on the receipt and declaration;

(5) Maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, and in no event a distance greater than five feet, and visible without physical barrier from such keg, during the time that the keg or other container is in the purchaser's possession and/or control. (Ord. 1462, 1986).

5.34.030 Declaration and receipt.

The form of the declaration and receipt required herein shall be substantially in the following form and shall require the information contained in the following form:

RECEIPT FOR SALE OF MALT LIQUOR
IN KEGS OR CONTAINERS TO
UNLICENSED PERSONS

Date of Sale _____ Invoice No. _____
Keg Identification Number(s) _____
Brand _____ Keg Capacity _____
No. of Kegs _____ Total Gallons _____
Name of Purchaser _____
Address _____
Address or location where keg
will be located: _____
Motor Vehicle Operator's License No. ___
Washington State Identification Card ____
Other Identification _____

I declare under penalty of perjury the information provided in this receipt is true and correct, and that I am over the legal age to purchase, possess or use malt liquor, that I will not allow the malt liquor purchased and identified by this receipt to be consumed by any person who is under the age of twenty-one (21) except as provided by RCW 66.44.270, and that I will not remove or obliterate the numbered identification label affixed to the container.

_____
Signature of Purchaser

Identity of Seller _____

Address of Licensed Premises _____

NOTICE

It is unlawful for any person under the age of twenty-one (21) years to acquire in any manner, consume or have in his or her possession, any intoxicating liquor, provided that the foregoing shall not apply in the case of liquor given or permitted to be given to such person under the age of twenty-one (21) years by his parent or guardian for beverage or medicinal purposes in the home or administered to him by his physician or dentist for medicinal purposes. A person who signs this receipt with knowledge that any information in the receipt is false commits perjury. Violations of any of the provisions of the Marysville Municipal Code which require this statement and these terms is a misdemeanor punishable by a fine of not more than $500.00, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

(Ord. 1462, 1986).

5.34.040 Penalty.

The violation of any provisions of this chapter shall be a misdemeanor punishable by a fine of not more than $500.00 or by imprisonment not to exceed six months or both such fine and imprisonment. (Ord. 1462, 1986).

Chapter 5.46

SPECIAL EVENTS

Sections:

5.46.010 Definitions.
5.46.020 Permit required.
5.46.030 Permit application.
5.46.040 Approval.
5.46.050 Fees.
5.46.060 Departmental analysis.
5.46.070 Insurance required.
5.46.080 Denial of permit.
5.46.090 Appeal.
5.46.100 Sanitation.

5.46.010 Definitions.

(1) "Special events" include any event which is to be conducted on public property or on a public right-of-way; and, also, any event held on private property which would have a direct significant impact on traffic congestion; or traffic flow to and from the event over public streets or rights-of-way; or which would significantly impact the need for city-provided emergency services such as police, fire or medical aid. It is presumed that any event on private property which involves an open invitation to the public to attend or events where the attendance is by private invitation of 100 or more people are each presumed to be an event that will have a direct significant impact on the public streets, rights-of-way or emergency services. Special events might include, but not be limited to, fun runs, roadway foot races, fundraising walks, auctions, bikeathons, parades, carnivals, shows or exhibitions, filming/movie events, circuses, block parties, markets, sporting events and fairs. (Ord. 2099 § 1, 1996).

5.46.020 Permit required.

(1) No person or organization shall conduct a special event that affects the customary and ordinary use of public streets, rights-of-way, sidewalks and publicly owned property, i.e., parks. without first having obtained a special event permit from the city of Marysville.

(2) A special event permit is not required for the following:

(a) Parades, athletic events or other special events that occur exclusively on city property and are sponsored or conducted in full by the city of Marysville. An internal review process will be conducted for these events;

(b) Funerals and weddings;

(c) Groups required by law to be so assembled;

(d) Gatherings of 30 or fewer people in a city park, unless merchandise or services are offered for sale or trade;

(e) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales;

(f) Garage sales and rummage sales;

(g) Other similar events and activities which do not directly affect or use city services or property;

(h) Annual Strawberry Festival which is governed by Chapter 5.48 MMC. (Ord. 2099 § 2, 1996).

5.46.030 Permit application.

(1) An application for a special event permit can be obtained at the office of the city clerk and will be completed and submitted to the city clerk no later than 60 days prior to the proposed event. A completed application does not constitute approval of the permit.

(2) A waiver of application deadline shall be granted upon a showing of good cause or at the discretion of the city clerk (risk manager). The city clerk shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other city services for the event. Good cause can be demonstrated by the applicant showing that the circumstances that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, and that the event is for the purpose of exercising the right of free speech.

(3) The following information shall be provided on the special event permit application: purpose of the special event; name, address and telephone number of the sponsoring organization and/or individual(s); proposed date of event, location and hours of operation, schedule of events, estimated attendance, special facility requirements, city assistance required, and other information as the city deems reasonably necessary to determine that the permit meets the requirements of this chapter. (Ord. 2099 § 3, 1996).

5.46.040 Approval.

Based on the type of event and the event to which city services will be required, approval of special event permit applications will be made by the following authorities:

(1) Approval by City Staff. Administrative approval for one-day events contained on a single site

that could involve special parking arrangements and hiring of police officers for crowd control and traffic control. City staff shall include a representative from the police, planning, public works, parks and recreation and city clerk departments.

(2) Approval by City Council. Multiple-day events (four days maximum) or any event involving street closures or impacts to services city-wide. Events lasting more than four days shall be subject to submittal of additional information as required by city staff.

(3) The city council will be notified of all special event approvals made by the city staff.

(4) If permits and/or coordination is required from other agencies, i.e., Community Transit, Department of Transportation, etc., these must be submitted prior to the issuance of the permit. (Ord. 2099 § 4, 1996).

5.46.050 Fees.

There will be a $25.00 nonrefundable application fee for a special event permit. (Ord. 2099 § 5, 1996).

5.46.060 Departmental analysis.

(1) The city clerk will send copies of special event permit applications to all pertinent city departments for review and determination of services required.

(2) The applicant is required to contract with the Marysville police department and public works department to employ police officers for security and traffic control as determined by the departmental analysis.

(3) Cost of city services, i.e., police, public works employees, etc. for special events will be estimated prior to the event. Additional costs incurred will be evaluated following the completion of the event. The city may in its discretion require a cash deposit for such costs. (Ord. 2099 § 6, 1996).

5.46.070 Insurance required.

The applicant is required to obtain and present evidence of comprehensive liability insurance naming the city of Marysville as an additional insured for use of streets, public rights of way and publicly owned property such as parks. The insurance requirement is a minimum of $1,000,000 for individual incidents, $2,000,000 aggregate, per event, against all claims arising from permits issued pursuant to this chapter. A certificate of insurance shall be required naming the city as an additional insured and indemnifying the city's, its officers, employees and agents from all causes of action, claims or liabilities occurring in connection with the permitted event. In circumstances posing an unusual risk of liability the city may, in its discretion, increase the minimum insurance requirements. (Ord. 2099 § 7, 1996).

5.46.080 Denial of permit.

Reasons for denial of a special event permit include, but are not limited to:

(1) The event will disrupt traffic within the city of Marysville beyond practical solution;

(2) The event will protrude into the public space open to vehicle or pedestrian travel in such a manner as to create a likelihood of endangering the public;

(3) The event will interfere with access to emergency services;

(4) The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents;

(5) The event will require the diversion of so many city employees that it would unreasonably affect other city services;

(6) The application contains incomplete or false information;

(7) The applicant fails to provide proof of insurance;

(8) The applicant fails to obtain a city business license and/or fails to pay the special event permit fee;

(9) The applicant does not meet current zoning requirements;

(10) The applicant fails to obtain local, county, state and federal permits as required. (Ord. 2099 § 8, 1996).

5.46.090 Appeal.

The applicant has the right to appeal any denial of a special events permit to the city council. (Ord. 2099 § 9, 1996).

5.46.100 Sanitation.

(1) A special event permit may be issued only after adequate waste disposal facilities have been identified and obtained by the applicant. The permittee is required to clean all permitted public and private properties and the right-of-way of rubbish and debris, returning it to its pre-event condition.

(a) If the permittee fails to clean up such refuse, the clean-up will be arranged by the city and the costs charged to the permittee.

(2) A special event permit may be issued only after adequate restroom and washroom facilities have been identified and arranged for or obtained

by the applicant subject to the Snohomish health district's review and certification process. (Ord. 2099 § 10, 1996).

Chapter 5.48

STRAWBERRY FESTIVAL

Sections:

5.48.010 Strawberry Festival master permit – Issuance – Activities authorized.
5.48.020 Annual requests for festival proposals – Contents.
5.48.030 Award of festival permit – Conditions – Fee.
5.48.040 Award of festival permit – Liability limitations.
5.48.050 Option to renew festival permit.

5.48.010 Strawberry Festival master permit – Issuance – Activities authorized.

The city council may annually issue a single Strawberry Festival master permit ("festival permit"), which shall authorize the permit holder to sponsor the citywide Strawberry Festival for that year. The permit shall designate the geographical boundaries of a festival area, and may include provisions within the area for festival parades, carnivals, sporting and recreational events, use of public right-of-way, use of public parks, erection of temporary vendor facilities and structures, sanitation and cleanup, and insurance, indemnity and hold-harmless agreements. With respect to all festival activities within the boundaries of the festival area, the permit shall be exclusive, and shall supersede other requirements of the Marysville Municipal Code relating to parade, carnival, circus, entertainment and public dance permits, and business occupancy permits, but shall not supersede the city admissions tax or any other applicable tax. (Ord. 1278 § 2, 1983).

5.48.020 Annual requests for festival proposals – Contents.

At any time after August 1st of each year the city may issue a request for festival proposals for the following year from any and all interested persons or parties. Notification of the request shall be published in the official newspaper of the city and posted in at least three public places in the city for a period of not less than two consecutive weeks. Festival proposals shall describe the proposed geographical boundaries of the festival area, all proposed festival activities and the dates thereof, the use of public right-of-way and public parks, the number and location of temporary vendor facilities and structures, and provisions for sanitation and cleanup. The proposal will further indicate the organizational structure, background and experi-

ence of the sponsor, and all insurance and indemnification provisions which it is able to offer to the city. All proposals shall be in writing and must be filed with the city clerk within 10 days of the date of final publication of the request for proposals. (Ord. 1331, 1984; Ord. 1278 § 3, 1983).

5.48.030 Award of festival permit – Conditions – Fee.

At any regular or special meeting of the city council held at least 10 days after the final date of publication of the request for proposals, the city council shall consider the merits of all duly filed festival proposals. It may request written or oral supplementation to any proposal. If the city council determines that it will issue a festival permit for that year, a single festival sponsor shall be selected from the duly filed proposals on the basis of the experience and qualifications of the sponsor, the merits of the festival proposal, and the public benefits arising from the same. The city council may impose such reasonable terms and conditions on the festival permit as it deems to be in the public interest. The festival sponsor shall pay the city a permit fee in the amount of $100.00. The city may reserve the right to charge additional amounts at the conclusion of the festival to reimburse the city for extraordinary costs expended for municipal services. (Ord. 1278 § 4, 1983).

5.48.040 Award of festival permit – Liability limitations.

The award of a festival permit shall not be construed as constituting the Strawberry Festival as a governmental or proprietary activity, event or function of the city of Marysville, nor shall it be construed as constituting the festival sponsor as an agent of the city. The festival sponsor shall assume all responsibility and liability for the conduct and management of the festival, and the finances thereof, and shall indemnify and hold the city harmless from any and all claims or causes of action for personal injury, death, or property damage arising from festival activities or the acts or omissions of participants therein. (Ord. 1278 § 5, 1983).

5.48.050 Option to renew festival permit.

At the time of awarding a festival permit, the city council, in its discretion, may grant the festival sponsor an option to renew the permit, without public competition, for up to four additional years. To exercise the option the festival sponsor, each year, shall submit a new festival proposal for approval by the city council and shall pay a new festival permit fee. (Ord. 1775 § 1, 1990; Ord. 1346, 1984).

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Chapter 5.52

CLOSING-OUT AND SPECIAL SALES

Sections:

5.52.010 License – Required.
5.52.020 Inventory – Required.
5.52.030 License – Fee.
5.52.040 Inventory – Contents.
5.52.050 Inventory – Verification.
5.52.060 Applicability.
5.52.070 Exemptions.
5.52.080 License – Denial.
5.52.090 Violation – Penalty.

5.52.010 License – Required.

(1) It is unlawful in advertising or conducting any sale of goods, wares or merchandise to represent such sale as a "closing-out sale," "going out of business sale," "liquidation sale," "quitting business sale," or any other expression or characterization which conveys the same or similar meaning or leads the public to believe that such sale is in anticipation of termination of a business, without first having filed with the city clerk the inventory provided for in this chapter and having obtained a license so to do, to be known as a "closing-out sale license"; provided, that any sale, the advertising or conduct of which clearly indicates the intent of closing out only a specific line, type, model or make of merchandise of a business shall not be subject to the requirements of this section.

(2) Only one such license shall be issued to any person for the same or a similar business at the same location and no such license shall be issued to any person who has not been in the business to be closed out at the same location for a period of at least six months. (Ord. 893 § 1, 1976).

5.52.020 Inventory – Required.

It is unlawful in advertising or conducting any sale of goods, wares or merchandise to represent such sale as a "fire sale," "smoke damage sale," "water damage sale," "loss of lease sale," "demolition sale," "bankrupt stock sale," "moving sale," "forced to vacate sale," or any other expression or characterization which conveys the same or similar meaning without first having filed with the city clerk the inventory provided for in this chapter and having obtained a license so to do, to be known as a "special sale license." (Ord. 893 § 2, 1976).

5.52.030 License – Fee.

The fee for a "closing-out sale license" or a "special sale license" shall be as follows: for a period not exceeding 30 days, $50.00; for a period not exceeding 60 days, $100.00; and for a period not exceeding 90 days, $150.00. No "closing-out sale license" or "special sale license" shall be issued for a period exceeding 90 days. (Ord. 893 § 3, 1976).

5.52.040 Inventory – Contents.

(1) The inventory required by MMC 5.52.010 and 5.52.020 shall be complete and accurate as to the stock of goods, wares and merchandise to be sold at any sale for which a "closing-out sale license" or "special sale license" is required, and shall be in such form and detail as may be required by the city clerk for the purpose of verifying such inventory as hereinafter provided and determining compliance with this chapter. Such inventory shall be signed by the person seeking the license, or by an authorized resident agent, and by affidavit he or such agent shall swear or affirm that the information therein given is full and true, and known by him or such agent to be so.

(2) It is unlawful to sell, offer or expose for sale at any such sale, or to list on such inventory, any goods, wares or merchandise which are not the regular stock of the place of business, or to make any replenishments or additions to such stock for the purpose of such sale, or during the time thereof, to fail, neglect or refuse to keep accurate records of the articles or things sold, from which records the city clerk may ascertain the kind and quantity or number sold. (Ord. 893 § 4, 1976).

5.52.050 Inventory – Verification.

The city clerk or any person designated by him may in his discretion verify the details of an inventory filed for the purpose of obtaining a "closing-out sale license" or "special sale license," or may make a check and verify the items of merchandise sold during the sale, and it is unlawful for any person to whom a "closing-out sale license" or "special sale license" has been issued to fail or refuse to give the city clerk or any person designated by him for that purpose all the facts connected with the stock on hand or the proper information on goods sold, or any other information that he may require in order to make a thorough investigation of all phases connected with the sale. (Ord. 893 § 5, 1976).

5.52.060 Applicability.

The provisions of this chapter shall be applicable to "closing-out sales" or "special sales" which are in progress on the effective date of the ordinance codified in this chapter; provided, however, that the licenses and inventory required under this

chapter need not be obtained in such cases for a period of 10 days following the effective date of the ordinance codified in this chapter. Application for a "closing-out sale license" or "special sale license" in a case where such sale was in progress on the effective date of the ordinance codified in this chapter shall indicate the date on which such sale commenced, and the term of the license as provided in MMC 5.52.030 shall be adjusted as if it were effective on the date such sale commenced. The fee for such licenses, as provided in MMC 5.52.030, shall be prorated to reflect the portion of the license term which is subsequent to the effective date of the ordinance codified in this chapter. The inventory required by MMC 5.52.040 shall show the stock of goods, wares and merchandise as of the date of application for the license. (Ord. 893 § 6, 1976).

5.52.070 Exemptions.

The provisions of this chapter shall not be applicable to trustees in bankruptcy, executors, administrators, receivers or public officers acting under judicial process. (Ord. 893 § 7, 1976).

5.52.080 License – Denial.

In addition to such other grounds as may be provided by this chapter, the city clerk may refuse to issue a "closing-out sale license" or "special sale license" if he has good reason to believe that the applicant has falsified any material fact in his application or any inventory filed therewith, and if he finds that any licensee has violated any provision of this chapter, or any law or ordinance relating to fraud or misrepresentation, he shall make a written record of such finding and may immediately revoke or suspend such license. The applicant may appeal such acts by the city clerk by filing a notice of appeal within 10 days following such acts. The appeal shall be heard and determined by the city council within two weeks of filing of said notice of appeal. (Ord. 893 § 8, 1976).

5.52.090 Violation – Penalty.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine in a sum not to exceed $300.00 or by imprisonment in jail for a term not exceeding 90 days, or by both such fine and imprisonment. (Ord. 893 § 9, 1976).

Chapter 5.60

ITINERANT MERCHANTS

Sections:

5.60.010 Uninvited solicitation declared a nuisance.
5.60.020 Exemption.

5.60.010 Uninvited solicitation declared a nuisance.

The practice of going in and upon private residential property of the city by solicitors, peddlers, merchants or transient vendors who have not been requested or invited to do so by the owner or occupant of the property, for the purpose of soliciting sales of goods, wares, merchandise, services or subscriptions to publications or audio/visual services, is declared to be a public nuisance and punishable as provided in Chapter 6.24 MMC. (Ord. 1430 § 1, 1985; Ord. 510 § 1, 1964).

5.60.020 Exemption.

The following activities are exempt from the provisions of MMC 5.60.010:

(1) A farmer or gardener selling his own unprocessed farm products raised or grown exclusively upon lands owned or occupied by him;

(2) Unpaid solicitors for national or local religious, charitable and/or community service organizations with a valid and current nonprofit status which is recognized by the state of Washington or the Internal Revenue Service;

(3) Solicitations of cable television subscriptions which are limited to the following time periods:

(a) For a period of three months following the issuance by the city of a new or renewed franchise to a cable television operator, and

(b) For limited periods of time specified by the city council in connection with special promotions. (Ord. 1430 § 2, 1985; Ord. 510 § 2, 1964).

Chapter 5.64

PAWNBROKERS AND SECONDHAND DEALERS

Sections:

5.64.010 Definitions.
5.64.020 License – Required.
5.64.050 Duty to record transactions – Contents.
5.64.060 Inspection of records and goods.
5.64.070 Report to chief of police.
5.64.080 Retention of property – Time limit.
5.64.090 Certain transactions prohibited.
5.64.100 Rates of interest and other fees.
5.64.110 Acts constituting misdemeanors designated – Penalty.

5.64.010 Definitions.

(1) Every person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or conditional sales of personal property, shall be deemed to be a "pawnbroker."

(2) Every person engaged in whole or in part in the business of buying or selling secondhand weapons, tools, electronic appliances, jewelry, silverware, precious metals or metal junk shall be deemed to be a "secondhand dealer." (Ord. 1688, 1989; Ord. 1109 § 1, 1980).

5.64.020 License – Required.

No persons or business entities shall engage in the business of being a pawnbroker or secondhand dealer without first obtaining and being a current holder of a valid and subsisting business license issued by the city pursuant to Chapter 5.02 MMC. One such license shall be required for each business premises. (Ord. 1576 § 1, 1987; Ord. 1109 § 2, 1980).

5.64.050 Duty to record transactions – Contents.

It shall be the duty of every pawnbroker and secondhand dealer doing business in the city to maintain in his place of business a book or other permanent record in which shall be legibly written in the English language, at the time of each loan, purchase or sale, a record containing:

(1) The date of the transaction;

(2) The name of the person or employee conducting the same;

(3) The name, age, street and house number and a general description of the dress, complexion, color of hair and facial appearance of the person with whom the transaction is had;

(4) The name and street and house number of the owner of the property bought or received in pledge;

(5) The street and house number of the place from which the property bought or received in pledge was last removed;

(6) A description of the property bought or received in pledge, which in the case of watches shall contain the name of the maker and the number of both the works and the case, and in the case of jewelry shall contain a description of all letters and marks inscribed thereon; provided, that when the article bought or received is furniture, or the contents of any house or room actually inspected on the premises, a general record of the transaction shall be sufficient;

(7) The price paid or the amount loaned;

(8) The names and street and house numbers of all persons witnessing the transaction; and

(9) The number of any pawn ticket issued therefor. (Ord. 1109 § 5, 1980).

5.64.060 Inspection of records and goods.

Such record, and all goods received, shall at all times during the ordinary hours of business be open to the inspection of the chief of police or his designee. (Ord. 1109 § 6, 1980).

5.64.070 Report to chief of police.

Every pawnbroker and secondhand dealer doing business in the city shall, before noon of each day, have ready for inspection by the chief of police, or his designee, on such forms as the city may provide therefor, a full, true and correct transcript of the record of all transactions had on the preceding day, and, having good cause to believe that any property in his possession has been previously lost or stolen, he shall forthwith report such fact to the chief of police or his designee, together with the name of the owner, if known, and the date when, and the name of the person from whom the same was received by him. (Ord. 1109 § 7, 1980).

5.64.080 Retention of property – Time limit.

No property bought or received in pledge by any pawnbroker or secondhand dealer shall be removed from his place of business, except when redeemed by the owner thereof, within 15 days after the receipt thereof shall have been reported to the chief of police, or his designee, as provided in this chapter. (Ord. 1720, 1989; Ord. 1109 § 8, 1980).

5.64.090 Certain transactions prohibited.

It shall be unlawful for any pawnbroker or secondhand dealer, his clerk or employee, to receive in pledge or purchase any article or thing from any

person under 18 years of age, or from any person who was at the time intoxicated or under the influence of drugs, or from any habitual drunkard, or from any person addicted to the use of narcotic drugs, or from any person who is known to be a thief, or a receiver of stolen property, or from any person who he has reason to suspect or believe to be such. (Ord. 1109 § 9, 1980).

5.64.100 Rates of interest and other fees.

It shall be unlawful for a pawnbroker to charge and receive interest and other fees at rates in excess of that provided for in RCW 19.60.060. (Ord. 1109 § 10, 1980).

5.64.110 Acts constituting misdemeanors designated – Penalty.

Every pawnbroker or secondhand dealer, and every clerk, agent or employee of such pawnbroker or secondhand dealer, who shall:

(1) Operate a pawnbroker or secondhand dealer business for which no license has been issued; or

(2) Fail to make an entry of any material matter in the books and records referred to above in this chapter; or

(3) Make any false entry therein; or

(4) Falsify, obliterate, destroy or remove from his place of business such book or record; or

(5) Refuse to allow the chief of police or his designee to inspect the same, or any goods in his possession, during the ordinary hours of business; or

(6) Report any material matter falsely to the chief of police or his designee; or

(7) Fail to have available before inspection by the chief of police or his designee a true and correct transcript of the record of all transactions had on the previous day; or

(8) Fail to report forthwith to the chief of police or his designee the possession of any property which he may have good cause to believe has been lost or stolen, together with the name of the owner, if known, and the date when, and the name of the person from whom, the same was received by him; or

(9) Remove or allow to be removed from his place of business, except upon redemption by the owner thereof, any property received, within four days after the receipt thereof shall have been reported to the chief of police or his designee; or

(10) Receive any property from a person from whom transactions are prohibited, as provided above in this chapter; shall be guilty of a misdemeanor, and shall be punished by a fine not to exceed $500.00, or by imprisonment in jail for not more than six months, or by both such fine and imprisonment. Each day in which a violation continues shall constitute a separate offense. (Ord. 1109 § 11, 1980).

Chapter 5.70

CABLE SYSTEM REGULATIONS[1]

Sections:

5.70.010 Short title.
5.70.020 Definitions.
5.70.030 Franchise grant.
5.70.040 Franchise purposes.
5.70.050 Nonexclusive franchise.
5.70.060 Application.
5.70.070 Duration.
5.70.080 Franchise territory.
5.70.090 Police powers.
5.70.100 Use of rights-of-way.
5.70.110 Pole or conduit agreements.
5.70.120 Franchise fees.
5.70.130 Taxes.
5.70.140 Other authorizations.
5.70.150 Rules and regulations of the city.
5.70.160 Delegation of powers.
5.70.170 Coverage.
5.70.180 Technical standards.
5.70.190 Construction standards.
5.70.200 Street cut or repair.
5.70.210 Safety requirements.
5.70.220 Regulation of rates and charges.
5.70.230 Privacy.
5.70.240 Discriminatory practices prohibited.
5.70.250 Equal employment opportunity.
5.70.260 Reimbursement.
5.70.270 Discounts.
5.70.280 Franchise renewal.
5.70.290 Franchise revocation.
5.70.300 Acceptance.
5.70.310 Conflicts.
5.70.320 Miscellaneous provisions.

5.70.010 Short title.

This chapter shall constitute the "cable system regulations" of the city of Marysville and may be referred to as such. (Ord. 2489 § 2, 2003).

5.70.020 Definitions.

For the purposes of this chapter, the following words, terms, phrases and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural number and words in the plural number include the singular number.

(1) "Applicant" means any person or entity that applies for an initial franchise.

(2) "Cable Act" means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as any of them may be amended.

(3) "Cable operator" means any person or group of persons, including a franchisee, who provide(s) cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a cable system.

(4) "Cable service" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(5) "Cable system" or "system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with federal statutes; or (e) any facilities of any electric utility used solely for operating its electric utility systems.

(6) "City" means the city of Marysville, a municipal corporation of the state of Washington, and all of the area within its boundaries, as such may change from time to time.

(7) "City council" means the Marysville city council, or its successor, the governing body of the city.

(8) "Customer service standards" means those customer service standards adopted by the city council applicable to cable operators.

1. Code reviser's note: See also Ch. 5.71, Cable Operator Customer Service Standards.

(9) "FCC" means the Federal Communications Commission.

(10) "Franchise" means an agreement that authorizes a person or entity to construct, operate, maintain or reconstruct a cable system. Upon the written acceptance by a franchisee, the agreement constitutes a contract between the city and franchisee.

(11) "Franchise area" means the area within the jurisdictional boundaries of the city to be served by a franchisee, including any areas annexed by the city during the term of a franchise.

(12) "Franchisee" means the person, firm, corporation or entity to whom or which a franchise, as hereinabove defined, is granted by the city council under this chapter and the lawful successor, transferee or assignee of said person, firm, corporation or entity.

(13) "Right-of-way" or "rights-of-way" means all of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and are located within the city: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements and similar public property and areas.

(14) "Subscriber" means any person who or which elects to subscribe to, for any purpose, cable service provided by a franchisee by means of or in connection with the cable system and whose premises are physically wired and lawfully activated to receive cable service from franchisee's cable system. (Ord. 2489 § 3, 2003).

5.70.030 Franchise grant.

It is unlawful to engage in or commence construction, operation, or maintenance of a cable system in the city without a franchise issued under this chapter. The city council may, by ordinance, issue a nonexclusive franchise to construct, operate and maintain a cable system within all or any portion of the city to any person or entity, whether operating under an existing franchise or not, who applies for authority to furnish cable service which complies with the terms and conditions of this chapter, and provided that such person or entity also agrees to comply with all of the provisions of the customer service standards and the franchise. However, this shall not be deemed to require the grant of a franchise to any particular person or entity. The city council may restrict the number of franchisees should it determine such a restriction would be in the public interest. (Ord. 2489 § 4, 2003).

5.70.040 Franchise purposes.

A franchise granted by the city under the provisions of this chapter shall:

(1) Permit the franchisee to engage in the business of operating a cable system and providing cable service within the city;

(2) Permit the franchisee to erect, install, construct, repair, reconstruct, replace and retain wires, cables, related electronic equipment, conduits and other property in connection with the operation of the cable system in, on, over, under, upon, along and across rights-of-way within the city; and

(3) Set forth the obligations of the franchisee under the franchise. (Ord. 2489 § 5, 2003).

5.70.050 Nonexclusive franchise.

Any franchise granted pursuant to this chapter shall be nonexclusive and not preclude the city from granting other or future franchises or permits. (Ord. 2489 § 6, 2003).

5.70.060 Application.

(1) An applicant for an initial franchise shall submit to the city a written application in a format provided by the city, at the time and place specified by the city for accepting applications, and accompanied by the designated application fee. An application fee in the amount of $20,000 shall accompany the application to cover costs associated with processing the application, including, without limitation, costs of administrative review, financial, legal and technical evaluation of the applicant, the costs of consultants, notice and publication requirements, and document preparation expenses. In the event such costs exceed the application fee, the applicant shall pay the difference to the city within 30 days following receipt of an itemized statement of such costs. Conversely, if such costs are less than the application fee, the city shall refund the difference to the applicant.

(2) Application – Contents. An application for an initial franchise for a cable system shall contain, at a minimum:

(a) A statement as to the proposed franchise and information relating to the characteristics and location of the proposed system;

(b) A resume of prior history of the applicant, including the expertise of the applicant in the cable system field;

(c) Information demonstrating the applicant's legal, technical and financial ability to construct and operate the proposed system;

(d) A list of the partners, general and limited, of the applicant, if a partnership; members, if a limited liability company; or the percentage of

stock owned or controlled by each stockholder having a five percent or greater interest, if a corporation;

(e) A list of officers, directors and key employees of the applicant, together with a description of the background of all such persons;

(f) The names and addresses of any parent entity or subsidiary of the applicant or any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant;

(g) A proposed construction and service schedule;

(h) Any other reasonable information that the city may request.

The city shall be allowed the opportunity to ask relevant follow-up questions and obtain further information from whatever source. A refusal by an applicant to cooperate or provide requested information is sufficient grounds for the city to deny an application.

(3) Consideration of Initial Franchise. Upon receipt of an application for an initial franchise and after obtaining any additional information the city in its sole discretion deems appropriate from any source, a hearing shall be scheduled to allow public comment. At the hearing, the city council shall receive public comment regarding the following:

(a) Public Benefit. Whether the public will benefit from granting a franchise to the applicant;

(b) Qualifications. Whether the applicant appears to have adequate legal, financial and technical qualifications and capabilities to build, operate and maintain a cable system in the city;

(c) No Conflicting Interests. Whether the applicant has any conflicting interests, either financial or commercial, that will be contrary to the interests of the city;

(d) Compliance with the Franchise and Local Laws. Whether the applicant will comply with all of the terms and conditions placed upon a franchisee by the franchise, this chapter, customer service standards and other applicable local laws and regulations;

(e) Compliance with Other Requirements. Whether the applicant will comply with all relevant federal and state laws and regulations pertaining to the construction, operation and maintenance of the cable system.

(4) Within 60 days after the close of the hearing, the city council shall decide whether to grant a franchise and on what conditions. The city council's decision shall be based upon the application, any additional information submitted by the applicant or obtained by the city from any source, and public comments. The city council may grant one or more franchises, or may decline to grant any franchise. (Ord. 2489 § 7, 2003).

5.70.070 Duration.

The term of any franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall be specified in the franchise. The effective date of any franchise shall be as specified in the franchise. (Ord. 2489 § 8, 2003).

5.70.080 Franchise territory.

Any franchise granted hereunder shall be valid for those geographic areas specified in the franchise. (Ord. 2489 § 9, 2003).

5.70.090 Police powers.

In accepting any franchise, the franchisee acknowledges that its rights thereunder are subject to the police powers of the city to adopt and enforce general ordinances necessary for the health, safety and welfare of the public, and it agrees to comply with all applicable laws enacted by the city pursuant to such power. (Ord. 2489 § 10, 2003).

5.70.100 Use of rights-of-way.

For the purposes of operating and maintaining a system in the city, a franchisee may place and maintain within the rights-of-way such property and equipment as are necessary and appurtenant to the operation of the cable system. Prior to construction or alteration of the system in the rights-of-way, the franchisee shall procure all necessary permits, pay all applicable fees in connection therewith, and comply with all applicable laws, regulations, resolutions and ordinances, including, but not limited to, land use and zoning requirements. (Ord. 2489 § 11, 2003).

5.70.110 Pole or conduit agreements.

No franchise shall relieve franchisee of any of its obligations involved in obtaining pole or conduit agreements from any department of the city, any utility company, or from others maintaining facilities in the rights-of-way. (Ord. 2489 § 12, 2003).

5.70.120 Franchise fees.

The franchisee shall pay the city franchise fees in accordance with the terms of the franchise. (Ord. 2489 § 13, 2003).

5.70.130 Taxes.

Nothing in this chapter shall limit the franchisee's obligation to pay applicable local, state and federal taxes. (Ord. 2489 § 14, 2003).

5.70.140 Other authorizations.

Franchisee shall comply with and obtain, at its own expense, all permits, licenses and other authorizations required by federal, state and local laws, rules, regulations and applicable resolutions and ordinances which are now existing or hereafter lawfully adopted. (Ord. 2489 § 15, 2003).

5.70.150 Rules and regulations of the city.

In addition to the inherent powers of the city to regulate and control any franchise it issues, the authority granted to it by the Cable Act, and those powers expressly reserved by the city, or agreed to and provided for in a franchise, the right and power is reserved by the city to promulgate such additional rules and regulations as it may find necessary in the exercise of its lawful powers and in furtherance of the terms and conditions of a franchise and this chapter, and as permitted by applicable state and federal law. (Ord. 2489 § 16, 2003).

5.70.160 Delegation of powers.

Any right or power of the city may be delegated by the city to any officer, employee, department or board of the city, or to such other person or entity as the city may designate to act on its behalf. (Ord. 2489 § 17, 2003).

5.70.170 Coverage.

(1) Franchisee shall design, construct and maintain its cable system to pass every residential dwelling unit in the franchise area, subject to any density requirements contained within the franchise.

(2) Commercial facilities shall be served in accordance with the provisions of the franchise. (Ord. 2489 § 18, 2003).

5.70.180 Technical standards.

Franchisee shall construct, install, operate and maintain its cable system in a manner consistent with all enacted and applicable federal, state and local laws and regulations, FCC technical standards and any other applicable standards set forth in the franchise. (Ord. 2489 § 19, 2003).

5.70.190 Construction standards.

(1) All facilities constructed or operated under this chapter shall be installed and maintained at such places in or upon such rights-of-way and public places as shall not interfere with the free passage of traffic and the free use of adjoining property, and shall conform to federal standards, Washington requirements, and city regulations.

(2) Franchisee shall be subject to any and all requirements established by the city with regard to the placement and screening of franchisee's facilities and equipment located in the rights-of-way and on other public property. Such requirements may include, but are not limited to, the use of landscaping to screen pedestals and cabinets and a requirement that construction be flush with the natural grade of the surrounding area.

(3) The franchisee shall comply with any applicable ordinances, resolutions, rules, regulations and policies of the city regarding geographic information systems mapping for users of the rights-of-way; provided, that all similarly situated users of the rights-of-way must also accordingly comply. (Ord. 2489 § 20, 2003).

5.70.200 Street cut or repair.

The franchisee shall guarantee the durability and structural integrity of any street cut or repair made by it or its agents which are necessary for the construction, installation, operation, repair or maintenance of franchisee's facilities for the life of the street; provided, that no action by a third party materially affects the integrity of franchisee's street cut or repair. Franchisee shall repair or replace, at no expense to the city, any failed street cut or repair which was completed by franchisee or franchisee's agent(s), as determined by the city engineer. (Ord. 2489 § 21, 2003).

5.70.210 Safety requirements.

The franchisee shall, at all times, employ professional care and install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. In furtherance thereof, the franchisee must comply with the city's traffic control requirements, including, for example, but without limitation, the use of signal devices, warning signs and flaggers when appropriate. All of franchisee's structures, cables, lines, equipment and connections in, over, under and upon the rights-of-way and public ways or other places in the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe condition. (Ord. 2489 § 22, 2003).

5.70.220 Regulation of rates and charges.

The city may regulate franchisee's rates and charges to the full extent permitted by law. (Ord. 2489 § 23, 2003).

5.70.230 Privacy.

The franchisee will be bound by all of the provisions of applicable federal, state and local privacy laws. (Ord. 2489 § 24, 2003).

5.70.240 Discriminatory practices prohibited.

The franchisee shall not deny cable service or otherwise discriminate against subscribers or others on the basis of race, color, religion, national origin, sex, age, disability or other protected classes. (Ord. 2489 § 25, 2003).

5.70.250 Equal employment opportunity.

The franchisee shall strictly adhere to and comply with the equal employment opportunity requirements of federal, state and local laws. (Ord. 2489 § 26, 2003).

5.70.260 Reimbursement.

To the extent allowed by applicable law, the city may require a franchisee to reimburse the city for the city's reasonable processing and review expenses in connection with a sale or transfer of a franchise or a change in control of a franchise or franchisee, including, without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee or controlling party, costs of consultants, notice and publication costs, and document preparation expenses. In connection with the foregoing, the city will send franchisee an itemized description of all such charges, and franchisee shall pay such amount within 30 days after the receipt of such description. (Ord. 2489 § 27, 2003).

5.70.270 Discounts.

The city encourages franchisee to provide special rate discounts for certain senior subscribers and permanently disabled subscribers as follows:

(1) The eligibility for the special rate considerations set forth in this section shall be limited to those subscribers who qualify as a "senior" or as "permanently disabled" under the city's prevailing standards and procedures and who must also be eligible for utility discounts from the city. The subscriber must also be the owner-occupant of a single-family or multiple dwelling unit residence or the legally responsible lessee of a rental residential dwelling or unit.

(2) Franchisee is encouraged to waive the standard installation fee for those dwellings or units within 125 feet of franchisee's cable system for those subscribers who are eligible under subsection (1) of this section. (Ord. 2489 § 28, 2003).

5.70.280 Franchise renewal.

Franchise renewals shall be conducted in accordance with applicable law. The city and franchisee, by mutual consent, may enter into renewal negotiations at any time during the term of a franchise. (Ord. 2489 § 29, 2003).

5.70.290 Franchise revocation.

Any franchise granted by the city may be revoked during the period of such franchise, as provided in the franchise, subject to the procedural requirements provided for therein. A failure by the franchisee to comply with any of the material provisions of this chapter shall be deemed a material violation of a franchise. (Ord. 2489 § 30, 2003).

5.70.300 Acceptance.

No franchise granted pursuant to the provisions of this chapter shall become effective unless and until the ordinance granting the same has become effective. Within 45 days after the adoption by the city council of the ordinance awarding a franchise, or within such extended period of time as the city council in its discretion may authorize, the franchisee shall file with the city clerk its written and unconditional acceptance of the franchise. (Ord. 2489 § 31, 2003).

5.70.310 Conflicts.

Where a franchise and this chapter conflict, both shall be liberally interpreted to achieve a common meaning or requirement. In the event that this is not possible within reasonable limits, the franchise shall prevail. (Ord. 2489 § 32, 2003).

5.70.320 Miscellaneous provisions.

(1) This chapter shall be construed in a manner consistent with all applicable federal, state and local laws, and shall apply to any franchise hereafter accepted by a franchisee.

(2) The captions throughout this chapter are intended to facilitate the reading hereof. Such captions shall not affect the meaning or interpretation of any part of this chapter.

(3) A franchisee shall not be relieved of its obligations to comply with any or all of the provisions of this chapter by reason of any failure of the city to demand prompt compliance.

(4) The provisions of this chapter shall apply to all cable operators and cable systems to the greatest extent permissible under applicable law. (Ord. 2489 § 33, 2003).

Chapter 5.71

CABLE OPERATOR CUSTOMER SERVICE STANDARDS[1]

Sections:

5.71.010 Policy.
5.71.020 Definitions.
5.71.030 Customer service.
5.71.040 Complaint procedure.
5.71.050 Miscellaneous.

5.71.010 Policy.

(1) The cable operator shall be permitted to resolve citizen complaints prior to action or involvement by the city.

(2) If a complaint is not resolved by the cable operator to the citizen's satisfaction, the city may intervene. In addition, where a pattern of or unremedied noncompliance with the customer service standards ("standards") is identified, the city may choose to follow the procedures contained herein. If the noncompliance is not addressed to the satisfaction of the city, monetary or other sanctions may be imposed to encourage compliance.

(3) These standards are intended to be of general application; however, the cable operator shall be relieved of any obligations hereunder if it is unable to perform due to circumstances beyond its reasonable control, such as natural disasters. The cable operator may, and is encouraged, to exceed these standards for the benefit of its customers and such shall be considered performance for the purpose of these standards. (Ord. 2490 § 1, 2003).

5.71.020 Definitions.

When used in these standards, the following words, phrases, and terms shall have the meanings given below:

"Cable operator" shall mean any person granted a franchise to operate a cable system within the city.

"City" shall mean the city of Marysville.

"Complaint" shall mean an initial or repeated customer expression of dissatisfaction, whether written or oral, or other matter that is referred beyond a customer service representative or the call center to a cable operator's system office or regional office or corporate headquarters, or to the city for resolution. This does not include routine inquiries and service requests.

1. Code reviser's note: See also Ch. 5.70, Cable System Regulations.

"Customer" shall mean any person who lawfully receives or will receive cable service from the cable operator.

"Customer service representative" or "CSR" shall mean any person employed by the cable operator to assist, or provide service to customers, whether by answering public telephone lines, answering customers' questions, or performing other customer-service-related tasks.

"Normal business hours" shall mean those hours during which most similar businesses in the city are open to serve customers. In all cases, "normal business hours" must include some evening hours, with customer service representatives available, at least one night per week and some weekend hours.

"Normal operating conditions" shall mean those service conditions that are within the control of the cable operator. Those conditions that are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

"Service interruption" shall mean the loss of picture or sound on one or more cable channels. (Ord. 2490 § 2, 2003).

5.71.030 Customer service.

(1) Courtesy. All employees of the cable operator shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with customers.

(2) Accessibility.

(a) The cable operator shall maintain a meaningful presence in the city via at least one customer service/bill payment center ("service center") either through a stand-alone location or by co-locating with another business. Service shall be available at the service center at least nine consecutive hours on Monday through Friday, ending no earlier than 6:00 p.m., and at least four consecutive hours on Saturdays, ending no earlier than 1:00 p.m. The service center shall be staffed with knowledgeable personnel offering the following services to customers who come to the service center: bill payment, equipment return, and response to other customer inquiries and requests. The cable operator shall post a sign at the service center advising customers of its hours of operation and of the addresses and telephone numbers at which to contact the city and the cable operator if the service center is not open at the times posted. The cable operator shall also make available its website and e-mail address to its customers. The cable operator shall also provide free exchanges for faulty converters at the customer's address at a convenient time that is mutually agreed upon.

(b) The cable operator shall maintain local telephone access lines or a toll-free telephone number that shall be available 24 hours a day, seven days a week for service/repair requests and billing inquiries.

(c) The cable operator shall have dispatchers and technicians on call 24 hours a day, seven days a week, including legal holidays.

(d) Trained customer service representatives will be available to respond to customer telephone inquiries during normal business hours. Under normal operating conditions, telephone answer time by a customer service representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis. Under normal operating conditions, the cable operator shall maintain adequate telephone line capacity to ensure that telephone calls are answered as provided in these standards.

(e) After normal business hours, the telephone lines may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained customer service representative on the next business day.

(f) Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.

(g) The cable operator shall not be required to acquire equipment or perform surveys to measure compliance with any of the telephone answering standards above unless and until the city requests such actions based on a historical record of customer inquiries or complaints indicating a clear failure to comply.

(3) Responsiveness.

(a) Residential Installation.

(i) The cable operator shall complete all standard residential installations requested by customers within seven business days after the order is placed, under normal operating conditions 95 percent of the time measured on a quarterly basis, unless the customer requests a later date for instal-

lation. "Standard" residential installations are those located within 125 feet from the existing distribution system and are provided via an aerial drop. If the customer requests a nonstandard residential installation, or the cable operator determines that a nonstandard residential installation is required, the cable operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

(ii) Absent unusual circumstances, all underground cable drops from the curb to the home shall be buried at a depth of no less than 12 inches, and within a reasonable period of time (but no later than 14 days, weather permitting) from the initial installation, or at a time mutually agreed upon between the cable operator and the customer. In all instances, the cable operator must comply with the state's one call requirements.

(b) Service Appointments.

(i) Customers requesting installation of cable service or service to an existing installation may choose a two-hour block of time for the installation or a four-hour block of time for the service appointment between 8:00 a.m. and 6:00 p.m. or another block of time mutually agreed upon by the customer and the cable operator. The cable operator may not cancel an appointment with a customer after 5:00 p.m. on the day before the scheduled appointment, except for appointments scheduled within 12 hours after the initial call.

(ii) If the cable operator's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled as necessary at a time that is convenient for the customer, and if that appointment involved the installation or addition of cable service, the applicable charge will be reduced or eliminated in accordance with the cable operator's standard practices.

(iii) The cable operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, provided that the technician has all necessary parts and equipment to complete the specified work order. If the customer is absent when the technician arrives, the technician shall leave written notification of timely arrival. The cable operator shall keep a copy of the notice.

(c) Outages and Service Interruptions.

(i) In the event of a system outage (loss of reception on all channels) resulting from cable operator equipment failure affecting five or more customers, the cable operator shall respond in accordance with its outage response procedures, and in no event more than two hours after the third customer call is received and shall remedy the problem as quickly as possible.

(ii) Under normal operating conditions, the cable operator shall use its best efforts to correct service interruptions resulting from cable operator equipment failure by the end of the next calendar day, but in no event longer than 48 hours.

(iii) The cable operator shall keep an accurate and comprehensive file of any and all complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the cable operator's actions in response to those complaints. The cable operator shall provide the city an executive summary upon request that shall include information concerning complaints.

(iv) Absent unusual circumstances, the cable operator shall use its best efforts to correct all outages and service interruptions for any cause beyond the control of the cable operator within 36 hours, after the conditions beyond its control have subsided, but not later than 48 hours.

(d) TV Reception.

(i) The cable service signal quality provided by the cable operator shall meet or exceed technical standards established by the Federal Communications Commission ("FCC"). The cable operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the cable system, preferably between midnight and 6:00 a.m.

(ii) If a customer experiences poor signal quality (whether it relates to a visual or audio problem) which is attributable to the cable operator's equipment, the cable operator shall respond and repair the problem no later than the day following the customer call; provided, that the customer is available and the repair can be made within the allotted time. If an appointment is necessary, the customer may choose a block of time described in subsection (3)(b)(i) of this section. At the customer's request, the cable operator shall repair the problem at a later time that is convenient for the customer.

(e) Problem Resolution. A customer service representative shall have the authority to, and shall provide credits, waive fees, schedule service appointments and change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who

shall contact the customer within 24 hours and resolve the problem within 48 hours or within such other timeframe as is acceptable to the customer and the cable operator.

(f) Billing, Credits, and Refunds.

(i) Bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations, including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(ii) In case of a billing dispute, the cable operator must respond to a written inquiry from a customer within 30 days.

(iii) The cable operator shall allow at least a commercially reasonable number of days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If the customer's service bill is not paid within 45 days of the beginning date of the applicable service period, the cable operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within 52 days of the beginning date of the applicable service period, the cable operator may disconnect the customer's service, provided it has given two weeks' written notice to the customer that such disconnection may result.

(iv) The cable operator shall issue refund checks promptly but no later than either the customer's next billing cycle following resolution of the request or within 30 days, whichever is earlier, or the return of the equipment supplied by the cable operator if service is terminated.

(v) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(g) Notice/Work. Except in the case of an emergency involving public safety or service interruption to a large number of subscribers, the cable operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed. In the case of an emergency, however, the cable operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Nothing herein shall be construed as authorizing access or entry to private property. Any work on private property shall be conducted in accordance with an agreement between the cable operator and the property owner. If damage is caused by any cable operator activity, the cable operator shall reimburse the property owner 100 percent of the cost of the damage or replace or repair the damaged property to as good a condition as before the cable operator's activity commenced. Adjacent or affected property owners shall be notified by mail or door hanger at least one week in advance of the installation of pedestals or other major construction or installation projects in the rights-of-way or on private property.

(4) Services for Customers with Disabilities.

(a) For any customer with a disability, the cable operator shall at no charge deliver and pick up converters at customers' homes. In the case of a malfunctioning converter, the technician shall provide another converter, hook it up and ensure that it is working properly, and shall return the defective converter to the cable operator.

(b) The cable operator shall provide TDD/TTY service with trained operators, who can provide every type of assistance rendered by the customer service representatives, for any hearing-impaired customer at no charge.

(c) The cable operator shall provide free use of a remote control unit to mobility-impaired customers (if disabled, in accordance with subsection (4)(d) of this section).

(d) Any customer with a disability may request the remote control unit described above by providing the cable operator with a letter from the customer's physician stating the need, or by making the request to the cable operator's installer or service technician, where the need for the special service can be visually confirmed.

(5) Customer Information.

(a) Upon installation of service, at least annually to all customers, at any time the customer may request, or upon its own initiative, the cable operator shall provide the following information in appropriate font sizes and type and in clear, concise written form:

(i) Products and services offered by the cable operator, including channel positions of programming carried on the system;

(ii) The cable operator's complete range of service options and the prices for those services and conditions of subscription to programming and other services;

(iii) Installation and service maintenance policies;

(iv) Instruction on the use of cable service;

(v) The cable operator's billing, collection and disconnection procedures;

(vi) Customer privacy requirements;

(vii) All applicable complaint procedures, and the telephone number and mailing

address of the cable operator and the contact information for the city (which contact information for the city shall be clearly and distinctly identified);

(viii) Use and availability of parental control/lock out devices;

(ix) Special services for customers with disabilities; and

(x) Days, times of operation, and location of the service center.

(b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to customers a minimum of 30 days in advance of such change(s) if the change is within the control of the cable operator. In addition, the cable operator shall notify customers 30 days in advance of any significant changes in the other information required by subsection (5)(a) of this section. The cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or charge of any kind imposed by any federal agency, state or the city on the transaction between the cable operator and the customer.

(c) In addition to the requirements of subsection (5)(b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, the cable operator shall give 30 days' written notice to the city before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

For purposes of the carriage of digital broadcast signals, the cable operator need only identify for customers the television signal added and not whether that signal may be multiplexed during certain dayparts.

(d) The cable operator shall provide written notice to a customer of any increase in the price to be charged for equipment associated with the basic service tier at least 30 days before any proposed increase is effective. The notice should include the address of the city.

(e) To the extent the cable operator is required to provide notice of service and rate changes to customers, the cable operator may provide such notice using any reasonable written means at its sole discretion.

(f) All officers, agents, and employees of the cable operator or its contractors or subcontractors who are in personal contact with customers shall wear on their outer clothing identification cards bearing their name and photograph. The cable operator shall account for all identification cards at all times. Every vehicle of the cable operator shall be visually identified to the public as working for the cable operator. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor or subcontractor, and shall be further identified as contracting or subcontracting for the cable operator. All CSRs shall identify themselves orally to callers immediately following the greeting during each telephone contact with the public.

(g) Each CSR, technician or employee of the cable operator in each contact with a customer shall state the estimated cost of the service, repair, or installation prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work is to be performed.

(6) Customer Privacy.

(a) The cable operator shall not monitor cable television signals to determine the individual viewing patterns or practices of any customer without prior written consent from that customer, except as needed to maintain system integrity or for other lawful purposes.

(b) The cable operator shall not sell or otherwise make available customer lists or other personally identifiable customer information without prior written customer consent except as otherwise permitted by law. The cable operator is permitted to disclose such information if such disclosure is necessary to render, or conduct, a legitimate business activity related to a cable service provided by the cable operator to its customers.

(7) Safety. The cable operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever the cable operator receives notice that an unsafe condition exists with respect to its equipment, the cable operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

(8) Satisfaction Guaranteed. The cable operator shall guarantee customer satisfaction for every customer who requests new installation of cable ser-

vice or adds any additional programming service to the customer's cable subscription. Any customer who requests disconnection of service shall not have to pay for such service after the date of disconnection. (Ord. 2490 § 3, 2003).

5.71.040 Complaint procedure.

(1) Complaints to the Cable Operator.

(a) The cable operator shall establish written procedures for receiving, acting upon, and resolving complaints without intervention by the city (except where necessary) and shall publicize such procedures through printed documents at the cable operator's sole expense.

(b) Said written procedures shall describe a simple process by which any customer may submit a complaint by telephone or in writing to the cable operator regarding a disputed matter, or an alleged violation of (i) any provision of these standards; (ii) any terms or conditions of the customer's contract with the cable operator; or (iii) reasonable business practices.

(c) Within 15 calendar days after receiving a complaint, the cable operator shall notify the customer of the results of its investigation and its proposed action or credit.

(d) The cable operator shall also notify the customer of the customer's right to file a complaint with the city in the event the customer is dissatisfied with the cable operator's decision, and shall explain the necessary procedures for filing such complaint with the city.

(e) The cable operator's complaint procedures shall be filed with the city.

(2) Security Fund.

(a) The security fund (letter of credit), if any, shall be in the amount as specified in the franchise.

(b) The security fund, if any, shall in part serve as security for the performance by the cable operator of all its obligations under these standards.

(c) The rights reserved to the city in this section are in addition to all other rights of the city, whether reserved by the franchise or authorized by law, and no action, proceeding or exercise of a right shall in any way affect, or diminish, any other right the city may otherwise have.

(3) Complaints to the City.

(a) Any customer who is dissatisfied with any proposed disposition of a complaint by a cable operator or who has not received a decision within the 15-calendar-day period shall be entitled to have the complaint reviewed by the city.

(b) The customer may initiate the review by filing a written request together with the cable operator's written decision, if any, with the city clerk.

(c) The customer shall make such filing within 20 days of receipt of the cable operator's decision or, if no decision has been provided, within 30 days after filing the original complaint with the cable operator.

(d) If the city decides that further information is warranted, the city may require the cable operator and the customer to submit, within 10 days of notice thereof, a written statement of the facts and arguments in support of their respective positions.

(e) The cable operator and the customer shall produce any additional information, including any reports from the cable operator, which the city may deem necessary to an understanding and determination of the complaint.

(f) The city shall issue a determination within 30 days after examining the materials submitted, setting forth its basis for the determination.

(g) The city may extend this 30-day time limit for reasonable cause and may intercede and attempt to negotiate an informal resolution.

(h) If the city determines that the complaint is valid and that the cable operator did not provide the complaining customer with the proper solution and/or credit, the city may reverse any decision of the cable operator in the matter and/or require the cable operator to grant a solution in accordance with the cable operator's credit/refund policy for the alleged violation, or resolve the matter as otherwise mutually agreed upon by the cable operator and the city.

(4) Verification of Compliance. The cable operator shall document its compliance with all of the standards required through annual reports that demonstrate said compliance, or as otherwise requested by the city.

(5) Overall Quality of Service. The city may evaluate the overall quality of customer service provided by the cable operator:

(a) In conjunction with any performance review provided for in the franchise; or

(b) At any other time, in its sole discretion, based on the number of complaints received by the cable operator or the city, and the cable operator's response to those complaints.

(6) Noncompliance with Standards. Noncompliance with any provision of these standards may result in a violation of a franchise.

(7) Procedures for Remedying Violations. If the city has reason to believe that the cable operator has failed to comply with any of these standards, or has failed to perform in a timely manner, or if similar complaints repetitively arise, the city may require in writing that the cable operator remedy the alleged noncompliance. If the alleged noncompliance is denied or not remedied to the satisfaction of the city, the city may opt to follow the liquidated damages procedures, revocation procedures or seek other remedies set forth in the franchise, or pursue any other remedies at law or in equity. (Ord. 2490 § 4, 2003).

5.71.050 Miscellaneous.

(1) Severability. Should any section, subsection, paragraph, or provision of these standards be determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, paragraph, or provision of these standards, all of which shall remain in full force and effect.

(2) Nonwaiver. Failure of the city to enforce any provision(s) of these standards shall not operate as a waiver of the provision(s) or of the standards.

(3) Attorneys' Fees and Expenses. If any action or suit arises in connection with these standards, the prevailing or substantially prevailing party (either the city or the cable operator, as the case may be) shall be entitled to recover all of its reasonable attorneys' fees, costs and expenses in connection therewith, in addition to such other relief as the court may deem proper. (Ord. 2490 § 5, 2003).

Chapter 5.72

MASSAGE BUSINESSES AND PRACTITIONERS

Sections:

5.72.010 Purpose.
5.72.020 Definitions.
5.72.030 Exemptions.
5.72.050 Massage practitioner's licenses.
5.72.060 License application.
5.72.070 Police investigation.
5.72.080 Issuance and denials of licenses.
5.72.090 Nontransferability of licenses.
5.72.100 Operating rules and regulations.
5.72.110 Inspection of massage premises.
5.72.120 Grounds for denial, suspension or revocation of licenses.
5.72.140 Criminal penalty.

5.72.010 Purpose.

The purpose of this chapter is to supplement Chapter 18.108 RCW for the regulation of massage businesses and practitioners. Such regulation is found to be necessary for the elimination of the injurious effects upon public health, safety and welfare which are caused by practices customarily associated with massage businesses (Ord. 1472, 1986).

5.72.020 Definitions.

In this chapter, unless the context otherwise requires, the following meanings shall apply:

(1) "Massage" means the treatment of the superficial parts of the body, with or without the aid of soaps, oils or lotions, by rubbing, touching, stroking, tapping and kneading, including the use of equipment, machinery or appliances in connection with the foregoing;

(2) "Massage business" means an operation or premises where massages are provided on a commercial basis;

(3) "Massage practitioner" means a person engaged in the practice of massage. (Ord. 1472, 1986).

5.72.030 Exemptions.

The following businesses or persons are exempt from the application of this chapter:

(1) An individual giving massage to members of his or her immediate family;

(2) The practice of a profession by individuals who are licensed, certified or registered under the laws of the state of Washington and who are per-

forming services within their authorized scope of practice;

(3) Massage practiced at the athletic department of any institution maintained by the public funds of the state of Washington, or any of its political subdivisions;

(4) Massage practiced at the athletic department of any school or college approved by the Washington State Department of Licensing as using recognized national, professional standards. (Ord. 2000 § 1, 1994; Ord. 1697 § 2, 1989; Ord. 1472, 1986).

5.72.050 Massage practitioner's licenses.

No person shall be employed or perform services as a massage practitioner without first obtaining a massage practitioner's license from the city. Any such license shall have a term of one year. The annual license fee shall be $25.00. (Ord. 1472, 1986).

5.72.060 License application.

The following items and information shall be required parts of any application for a massage business license or a massage practitioner's license, or any renewal thereof:

(1) All applicants shall be fingerprinted by the Marysville police department, and shall pay the administrative cost of the same; this requirement may be waived in the case of license renewals.

(2) All applicants shall be photographed by the Marysville police department, and shall pay the administrative cost of the same; this requirement may be waived in the case of license renewals.

(3) All applicants shall be 18 years of age or older.

(4) All applicants for a practitioner's license shall submit written proof that they have a current massage practitioner's license issued by the Washington State Department of Licensing.

(5) All applicants shall fully and accurately identify themselves by name, any aliases used for the past five years, birthplace and birth date, and all home addresses for the past five years.

(6) The name and address of all massage businesses which the applicant currently owns or works in, or has owned or worked in for the past five years.

(7) Whether the applicant has been convicted of, or forfeited bail to, any crime, excluding minor traffic offenses, and if so, the name of the court in which the case was filed and the circumstances and disposition of the case.

(8) A statement identifying and explaining any and all discipline taken against the applicant by the Washington State Massage Examining Board.

(9) A written statement from a licensed doctor of medicine certifying that any person applying for a practitioner's license is in good health and does not suffer from any contagious or communicable disease.

(10) Whether the applicant has failed or refused to qualify for any massage business license or massage practitioner's license required by any municipal jurisdiction, or whether any such license has been revoked, denied or suspended.

(11) The address of the proposed massage business, or the address where the applicant will be employed.

(12) The percent of customers who will be under 18 years of age; and the percent of customers who will be referrals from physicians with written prescriptions for massage treatment. (Ord. 1697 §§ 1, 3, 4, 1989; Ord. 1472, 1986).

5.72.070 Police investigation.

Within 30 days after receipt of a license application, the city police department shall investigate the statements contained therein and make a written recommendation to the city clerk to grant or deny the license, or to require further information from the applicant. (Ord. 1472, 1986).

5.72.080 Issuance and denials of licenses.

(1) The city clerk shall immediately issue a license upon receiving evidence of the following:

(a) A complete application has been filed in compliance with this chapter;

(b) The police department has recommended that the license be issued;

(c) The compliance officer has granted zoning and building code clearance for the proposed business.

(2) If the city clerk fails or refuses to issue a license within 30 days after a complete application has been filed, or if the police department or compliance officer recommend denial of a license, the matter shall be scheduled for a public hearing before the city council. The applicant shall receive not less than seven days advance written notice of the public hearing, and shall have access to all information which the city staff intends to present to the city council. At the conclusion of the public hearing, the city council shall enter findings of fact and an order granting or denying the license. The decision of the city council shall be final, subject to appeal to the Snohomish County Superior Court within 14 days following such decision. (Ord. 1472, 1986).

5.72.090 Nontransferability of licenses.

(1) A massage practitioner's license shall be valid for only one person. It is not transferable to any other person.

(2) If a massage practitioner changes his or her place of employment during the term of the practitioner's license, said license must be returned to the city and reissued showing the name and address of the new place of employment. (Ord. 1697 § 1, 1989; Ord. 1472, 1986).

5.72.100 Operating rules and regulations.

The following operating rules and regulations shall apply to all massage businesses and licensed massage practitioners:

(1) All massage businesses shall be closed, and all services performed shall be discontinued, between the hours of 10:00 p.m. and 6:00 a.m.

(2) Liquor and controlled substances shall not be distributed or consumed on the premises of a massage business.

(3) A list of all services offered with a brief description of what the service entails, along with the cost for such service, must be posted in a prominent place in all massage businesses. All business transactions with customers must be conducted in accordance with said posted list.

(4) It is unlawful for any owner, proprietor, manager or person in charge of any massage business to employ in such establishment any person under the age of 18 years, or to cause or permit any person to perform services as a massage practitioner who does not have a valid massage practitioner's license issued by the city.

(5) It is unlawful for any owner, proprietor, manager or person in charge of any massage business, or any agent or employee of such a business, to admit anyone under the age of 18 years of age and to permit them to remain in or about the premises unless such person under the age of 18 years is accompanied by his or her parent or legal guardian, or as a written consent form signed by his or her parent or legal guardian.

(6) It is unlawful for any owner, proprietor, manager or person in charge of any massage business, or any agent or employee of such a business, to knowingly harbor, admit, receive or permit to be or remain in or about the massage business premises, any prostitute, lewd or dissolute person, or any drunk or boisterous person, or any person under the influence of any controlled substance.

(7) It is unlawful for any owner, proprietor, manager or person in charge of any massage business, or any agent or employee of such a business, to encourage or permit any person to expose, touch, caress or fondle the genitals, pubic region, anus or female breasts of any other person; or to perform or simulate acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts prohibited by law.

(8) The premises and equipment of a massage business establishment shall be maintained in a clean, safe and sanitary manner, and shall be in full compliance with the requirements of the Snohomish Health District and WAC 308-51-050 and WAC 308-51-060.

(9) A person suffering from infectious or contagious diseases shall not be treated by any licensed massage business or massage practitioner. A massage practitioner who is suffering from infectious or contagious diseases shall not perform any massage services. (Ord. 1697 § 5, 1989; Ord. 1472, 1986).

5.72.110 Inspection of massage premises.

(1) Any city police officer may visit and inspect the premises of a massage business at any time when such premises are open for business. Such inspection shall be limited to the following purposes:

(a) To ascertain whether or not all massage practitioners working on the premises are properly licensed;

(b) To ascertain whether or not the operating rules and regulations specified in this chapter are being complied with in full.

(2) This section shall not be construed to permit the physical, forcible entry by a police officer into any area of a massage business without a search warrant, but refusal to permit inspection, for the purposes set out above, shall be grounds for revocation or suspension of a massage business license. (Ord. 1472, 1986).

5.72.120 Grounds for denial, suspension or revocation of licenses.

(1) The city may deny issuance or renewal of any license authorized under this chapter, or may suspend or revoke any such license, if it finds that the applicant or the licensee, or any manager, officer, director, agent or employee of an applicant or licensee, has caused, permitted or knowingly done any of the following:

(a) Has made any false statement or representation, or has failed to disclose any material information, to the city or to any agent or employee of the city in connection with the license application or the use of said license in a massage business;

(b) Has violated any provision of this chapter;

(c) At any time during the term of a license issued by the city, the licensee fails to maintain a current massage practitioner's license issued by the Washington State Department of Licensing;

(d) Is operating, or proposes to operate, a massage business which constitutes an adult massage parlor, as defined in Chapter 19.08 MMC, without complying with the zoning requirements of that chapter.

(2) Any complaint seeking suspension or revocation of a massage practitioner's license shall be filed with the city clerk and scheduled for a public hearing before the city council. The license holder shall be provided not less than seven days' advance written notice of the public hearing and shall have access to all written reports or accusations which have been filed with the city clerk. At the conclusion of the public hearing the city council shall enter findings of fact and an order regarding the suspension or revocation of the license in question. Said order shall be final, subject to appeal to the Snohomish County Superior Court within 14 days following such decision. (Ord. 1697 §§ 6, 7, 1989; Ord. 1472, 1986).

5.72.140 Criminal penalty.

Any person who violates any of the provisions of this chapter shall be guilty of a gross misdemeanor. (Ord. 1472, 1986).

Chapter 5.76

AIRCRAFT LANDING PERMITS

Sections:

5.76.010 Definitions.
5.76.020 Aircraft landings unlawful without permit.
5.76.030 Permit issuance.
5.76.040 Permit application and documents.
5.76.050 Permit revocation.
5.76.060 Appeal.
5.76.070 Penalty.

5.76.010 Definitions.

(1) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for manned navigation of, or manned flight in the air, including, but not limited to, airplanes, helicopters and balloons.

(2) "Aircraft landing" means any maneuver by an aircraft which causes any part of such aircraft to contact the ground or any structure on the ground, or to come within immediate proximity of the ground or any such structure. (Ord. 1545, 1987).

5.76.020 Aircraft landings unlawful without permit.

It is unlawful for any person to land an aircraft, or to cause or permit an aircraft to land in the city of Marysville without first having obtained an aircraft landing permit as provided in this chapter. Public operations in cases of emergencies, search and rescue, or fire, and any operations by law enforcement, military or medical personnel, are exempt from the application of this chapter. (Ord. 1545, 1987).

5.76.030 Permit issuance.

The city clerk, or designee, is authorized to issue or deny aircraft landing permits. Applications for the same shall be circulated for review and comment among all affected departments of the city. A permit may be issued only if the clerk finds that the proposed landing will pose no substantial threat to the health, safety or welfare of the surrounding community. Permits may only be issued for occasional, infrequent aircraft landings. Frequent, regular, or scheduled aircraft landings, such as at an airport, heliport or helistop, are not to be permitted under any circumstances. (Ord. 1545, 1987).

5.76.040 Permit application and documents.

(1) Applications for aircraft landing permits shall be accompanied by a fee for administrative

expenses in the amount of $10.00, shall be on forms provided by the city clerk, and shall contain the following information:

(a) Name, address and telephone number of applicant;

(b) Description of aircraft involved, specifying type, manufacturer, dimensions, gross weight with fuel, type of fuel, passenger capacity, cargo weight limits, FAA license registration number, and minimum area required for landing and take-off;

(c) Purpose of landing;

(d) Site of landing, including name, address and telephone number of property owner;

(e) Time of landing;

(f) Weather conditions that would make a landing unsafe;

(g) Proposed safety precautions on site;

(h) Ground facilities that will be required for refueling, maintenance, servicing, loading or unloading, and any other appurtenances necessary on the ground for such landings;

(i) Experience of pilot or operator and license number if applicable.

(2) The applicant shall provide the following documents:

(a) Hold-harmless agreement for the benefit of the city signed by the person responsible for the landing;

(b) Permission to land signed by the person with legal possession of the land. (Ord. 1545, 1987).

5.76.050 Permit revocation.

The mayor, fire chief or police chief, or their designees, are authorized to revoke any permit issued pursuant to this chapter if there is probable cause to believe that the aircraft landing is not or will not be carried out in the manner prescribed by the permit, or the aircraft landing will pose a substantial threat to the public health, safety or welfare. The applicant shall be notified promptly of the permit revocation. (Ord. 1545, 1987).

5.76.060 Appeal.

Any aggrieved person may appeal the determination of the city to issue, deny or revoke an aircraft landing permit. Such appeals shall be filed, in writing, within 10 days of the date of the permit decision. An appeal hearing shall be held before the city council within two weeks thereafter. The decision of the city council shall be final. (Ord. 1545, 1987).

5.76.070 Penalty.

The violation of any section of this chapter shall constitute a misdemeanor and shall be punished pursuant to MMC 6.03.120. (Ord. 1545, 1987).

Chapter 5.80

ADULT MOTION PICTURE THEATERS, ADULT DRIVE-IN THEATERS AND ADULT CABARETS

Sections:

5.80.010 Definitions.
5.80.020 License required.
5.80.030 Adult cabaret, adult drive-in theater, adult motion picture theater licenses.
5.80.040 Adult motion picture theater or adult drive-in theater manager, projectionist, usher and security personnel licenses.
5.80.050 Adult cabaret manager, assistant manager, security personnel and entertainer licenses.
5.80.060 Denials of license.
5.80.070 Suspension or revocation of licenses – Notice – Summary suspension or revocation.
5.80.080 Standards of conduct and operation – Adult cabarets.
5.80.090 Standards of conduct and operation – Adult motion picture theaters and adult drive-in theaters.
5.80.100 Record keeping.
5.80.110 Inspections.
5.80.120 Misdemeanor.
5.80.130 Severability.

5.80.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

(1) "Adult cabaret" is a commercial establishment which presents go-go dancers, strippers, male or female impersonators, or other similar entertainers and in which patrons are exposed to "specified sexual activities" or "specified anatomical areas." An establishment shall be considered a commercial establishment and an adult cabaret, regardless of the form of the organization, whether a proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An establishment shall be considered a commercial establishment even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(2) "Adult drive-in theater" is a drive-in theater used for presenting motion picture films, videocassettes, television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas." A drive-in theater shall be considered an "adult drive-in theater" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "adult drive-in theater" even though its patrons are members and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(3) "Adult entertainer" means any person who provides live adult entertainment at an adult cabaret, whether or not a fee is charged or accepted for such entertainment. References to "entertainer(s)" shall be references to "adult entertainer(s)."

(4) "Adult motion picture theater" is an enclosed building used for presenting for commercial purposes motion picture films, videocassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein. A motion picture theater shall be considered an "adult motion picture theater" and operating for commercial purposes regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "adult motion picture theater" even though its patrons are members and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(5) "Applicant" means the individual or entity seeking a license to operate either an adult motion picture theater, adult drive-in theater or adult cabaret in the city of Marysville. Upon issuance of a license, the applicant may be referred to as the "licensee."

(6) "Applicant control person" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the business, based on responsibility for the management of the business.

(7) "Beginning work" shall mean engaged in activities for a business required to be licensed by this chapter, whether the relationship is deemed between employer and employee or owner and independent contractor.

(8) "Clerk" shall mean the city clerk or deputy city clerk as appointed pursuant to the provisions of Chapter 2.30 MMC.

(9) "Employee or independent contractor" means any and all persons, including managers, and entertainers who work in or at or render any

services directly related to the operation of an adult motion picture theater, adult drive-in theater or adult cabaret.

(10) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter 2.70 MMC.

(11) "Live adult entertainment" means entertainment presented by go-go dancers, strippers, male or female impersonators, or other similar entertainers and in which patrons are exposed to "specified sexual activities" or "specified anatomical areas."

(12) "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at an adult motion picture theater, adult drive-in theater or adult cabaret. An "assistant manager" shall be that person who, in the absence of the manager or jointly with the manager, shall undertake the duties of the manager as defined by this section.

(13) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.

(14) "Projectionist" means that person operating any projector, videocassette recorder, television or video display terminal for commercial purposes, but not in an adult panoram establishment as covered by Chapter 5.84 MMC where the visual media is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(15) "Security personnel" means those persons at an adult motion picture theater, adult drive-in theater or adult cabaret and who are either responsible for admissions to the adult motion picture theater, adult drive-in theater or adult cabaret or who act to preserve the peace in the facility through control of the patrons or employees or independent contractors in the facility.

(16) "Specified anatomical areas" means:

(a) Less than completely and/or opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola;

(b) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

(17) "Specified sexual activities" means:

(a) Acts of human masturbation, sexual intercourse or sodomy;

(b) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;

(c) Human genitals in a state of sexual stimulation or arousal.

(18) "Usher" means those persons in an adult motion picture theater or adult drive-in theater who direct or assist patrons in finding their seating or locations from which the visual media may be observed. (Ord. 2449 §§ 1, 2, 3, 2002; Ord. 2070 § 3, 1996).

5.80.020 License required.

(1) It is unlawful for any person to conduct, manage or operate any of the following businesses unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter: adult motion picture theater, adult drive-in theater, or adult cabaret.

(2) It is unlawful for any adult entertainer or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to, the operation of an unlicensed adult cabaret.

(3) It is unlawful for any adult entertainer to perform in an adult cabaret unless such person is the holder of a valid and subsisting license from the city to do so.

(4) It is unlawful for any manager or assistant manager to work in an adult cabaret, adult motion picture theater, or adult drive-in theater unless such person is the holder of a valid and subsisting license from the city to do so.

(5) It is unlawful for any projectionist or usher to work in an adult drive-in theater or an adult motion picture theater unless such person is the holder of a valid and subsisting license from the city to do so.

(6) It is unlawful for any security personnel to work in an adult cabaret, adult drive-in theater or an adult motion picture theater unless such person is the holder of a valid and subsisting license from the city to do so. (Ord. 2070 § 3, 1996).

5.80.030 Adult cabaret, adult drive-in theater, adult motion picture theater licenses.

(1) All applications for either an adult cabaret, adult drive-in theater, or an adult motion picture theater license shall be submitted to the clerk in the name of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All

applications shall be submitted on a form supplied by the city, which shall require the following information:

(a) For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.

(b) If a partnership, whether general or limited, the names and addresses of all partners; and if a corporation, date and place of incorporation, names and addresses of all shareholders, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

(c) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult entertainment, including panorams, from the city or another city, county or state, and if so, the names and addresses of each other licensed business.

(d) A summary of the business history of the applicant and applicant control persons in owning or operating an adult cabaret, adult motion picture theater, adult drive-in or an adult panoram, provid-

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ing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.

(e) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.

(f) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

(g) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.

(h) The location and doing-business-as name of the proposed adult cabaret, adult drive-in theater, or adult motion picture theater, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

(i) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

(j) A complete set of fingerprints for the applicant or each applicant control person taken by Marysville police department employees.

(k) A scale drawing or diagram showing the configuration of the premises for the proposed adult cabaret, adult drive-in theater or adult motion picture theater, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. When required, an exterior lighting plan shall be submitted also.

(2) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

(3) A nonrefundable application fee of $700.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be $500.00.

(4) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(5) If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice required shall include the information required for the original license application.

(6) The adult cabaret, adult drive-in theater or adult motion picture theater license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed adult cabaret, adult drive-in theater or adult motion picture theater. The license shall be posted in a conspicuous place at or near the entrance to the adult cabaret, adult drive-in theater or adult motion picture theater, so that it can be easily read at any time the business is open.

(7) No person granted a license pursuant to this chapter shall operate the business under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the license. A separate license shall be required for each type of business covered by this chapter, and a separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have

been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) A license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days. (Ord. 2070 § 3, 1996).

5.80.040 Adult motion picture theater or adult drive-in theater manager, projectionist, usher and security personnel licenses.

(1) No person shall work as a manager, assistant manager, projectionist, usher or security personnel at an adult drive-in theater or adult motion picture theater without a manager, assistant manager, projectionist, usher or security personnel license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of $25.00 shall accompany the application for a projectionist, usher or security personnel. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the adult motion picture theater or adult drive-in theater.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information

required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be $75.00. The annual renewal fee for a projectionist, usher or security personnel shall be $20.00. (Ord. 2070 § 3, 1996).

5.80.050 Adult cabaret manager, assistant manager, security personnel and entertainer licenses.

(1) No person shall work as a manager, assistant manager, security personnel or adult entertainer at an adult cabaret without an entertainer's, manager's, or security personnel's license from the city. Each applicant for a manager's, security personnel's or entertainer's license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. The license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, Social Security number, and in the entertainer's application any stage names or nicknames used in entertaining.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Every adult entertainer and each and all security personnel shall provide his or her license to the adult cabaret manager on duty on the premises prior to beginning work. The manager shall retain the licenses of the adult entertainers and security personnel readily available for inspection by the city at any time during business hours of the adult cabaret.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) An adult cabaret manager's or security personnel's or adult entertainer's license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for an adult cabaret manager's or security personnel's license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as an adult cabaret manager or as security personnel in a duly licensed adult cabaret until notified by the

clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) An applicant for an adult entertainer's, manager's, assistant manager's or security personnel's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day following the filing of the complete application and fee, unless the clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the clerk extend the application review time for more than an additional 20 days. If the clerk determines that the adult entertainer, manager, assistant manager, or security personnel has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws.

(5) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager, assistant manager, adult entertainer or for security personnel shall be $75.00. (Ord. 2134 § 1, 1997; Ord. 2070 § 3, 1996).

5.80.060 Denials of license.

Should the person seeking a license under this chapter disagree with the clerk's determination, the applicant must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the notification of denial.

(1) The city shall, within five working days following receipt of the notice of nonacceptance, apply to the superior court for a judicial determination as to whether the applicant's license was properly denied. The burden of showing that the applicant's license was properly denied shall rest on the city.

(2) If a preliminary judicial determination sustaining the city's denial of the subject license is not obtained within five working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within 20 days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned 20-day period. (Ord. 2070 § 3, 1996).

5.80.070 Suspension or revocation of licenses – Notice – Summary suspension or revocation.

(1) The city clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

(a) The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

(c) The applicant, applicant control person, manager, assistant manager, projectionist, usher, adult entertainer, or security personnel has violated or permitted violation of any of the provisions of this chapter.

(2) The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the city clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter 2.70 MMC):

(a) The hearing shall be held no earlier than three and no later than 10 working days from the date of notice of intent to revoke.

(b) The licensee shall be permitted to present evidence in support of his position at the hearing.

(c) Within two working days after the hearing, the hearing examiner shall notify the licensee in writing of his/her determination and reasons therefor.

(d) Should the licensee disagree with the determination, he/she must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the hearing examiner's determination.

(e) In the event that a notice of nonacceptance is not filed, the hearing examiner's determi-

nation shall become final and the suspension/revocation shall be given immediate effect.

(3) The city shall, within five working days following receipt of a notice of nonacceptance, file a complaint with the superior court enjoining the licensee from operating his/her business or acting pursuant to his/her license. The burden of proof shall be on the city. The status quo shall be maintained and the clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered. (Ord. 2070 § 3, 1996).

5.80.080 Standards of conduct and operation – Adult cabarets.

The following standards of conduct and operation must be adhered to by an adult cabaret and its employees and independent contractors:

(1) Required on Premises. While open to the public, a licensed manager and/or assistant manager shall be on premises at all times. While open to the public, licensed, uniform-wearing security personnel in the following numbers shall be on premises at all times:

Patron Seating	Number of Uniformed Security Personnel
Less than 50 seats	1
50 to 100 seats	2
100 to 150 seats	3
More than 150 seats	4

(2) Nudity. No employee, independent contractor or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least 18 inches above the immediate floor level and removed at least eight feet from the nearest member of the public (the "performance area").

(3) Mingling. No employee, independent contractor or entertainer mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subsection (2) of this section, nor shall any male employee or entertainer at any time appear with his genitals in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.

(4) Simulated Anatomy. No employee, independent contractor or entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, any portion of the pubic region, or buttocks.

(5) Sexual Touching – Patrons. No employee, independent contractor or entertainer shall caress, fondle, or erotically touch any member of the public. No employee, independent contractor or entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee, independent contractor or entertainer.

(6) Sexual Acts – Employees. No employee, independent contractor or entertainer shall perform actual or simulated acts of sexual conduct, or any act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.

(7) Four Feet. No employee, independent contractor or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the nonstage area of the adult cabaret unless that dance, performance or exhibition is performed at a distance of no less than four feet from any member of the public.

(8) Gratuities. No payment, tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No adult entertainer performing upon any stage area shall be permitted to accept any form of payment or gratuity offered directly to the entertainer by any member of the public. Any payment or gratuity offered to any adult entertainer performing upon any stage area must be provided through a manager on duty on the premises. Any payment, gratuity or tip offered to any adult entertainer conducting any performance, dance or exhibition in or about the nonstage area of the adult cabaret shall be placed into the hand of the adult entertainer or into a receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.

(9) Admission. Admission must be restricted to persons of the age of 18 years or more. It shall be unlawful for any owner, operator, manager, or other person in charge of an adult cabaret to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.

(10) Employees, Independent Contractors. All managers, adult entertainers, security personnel, employees, independent contractors or entertainers shall be over the age of 18 years.

(11) Signage. Neither the performance nor any photograph, drawing, sketch, or other pictorial or graphic representation thereof displaying any por-

tion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the adult cabaret.

(12) Access to Nonpublic Areas. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the adult cabaret, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees or independent contractors, and the kitchen and storage areas; except that authorized vendors or service personnel delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

(13) Performance Area. The performance area of the adult cabaret shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which members of the public have access. A continuous railing at least three feet in height and located at least eight feet from all points of the performance area shall separate the performance area and the public seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.

(14) Interior Lighting. Sufficient interior lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times and all parts of the public areas shall be illuminated so that patrons with normal vision in any part of the public areas of the premises shall be able to read written textual material printed in eight-point type. A sample of eight-point type follows:

This is a sample of eight-point type.

(15) Exterior Lighting. All on-site parking areas and premises entries shall be illuminated from dusk until one hour past closing hours of operation with a lighting system that provides an average maintained horizontal illumination of one footcandle of light on the parking surface and/or walkways. An on-premises exterior lighting plan shall be included in the application for license submitted to the clerk.

(16) Signs. Two signs at least two feet by two feet, and one in the immediate area of the entrance, with letters at least one inch high shall be conspicuously displayed in the public area(s) of the premises stating the following:

> THIS ADULT CABARET IS REGULATED BY THE CITY OF MARYSVILLE. ENTERTAINERS ARE:
>
> 1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
>
> 2. NOT PERMITTED TO APPEAR SEMINUDE OR NUDE EXCEPT ON STAGE.
>
> 3. NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE.
>
> 4. NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA.
>
> 5. WHILE PERFORMING IN NONSTAGE AREAS, NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES EXCEPT THOSE PLACED IN THE ENTERTAINER'S HAND OR A RECEPTACLE.

(Ord. 2070 § 3, 1996).

5.80.090 Standards of conduct and operation – Adult motion picture theaters and adult drive-in theaters.

The following standards of conduct and operation must be adhered to by adult motion picture theaters and adult drive-in theaters:

(1) Required on Premises. While open to the public, a licensed manager or assistant manager shall be on premises at all times. While open to the public, a licensed, uniform-wearing security person shall be on premises at all times as well.

(2) Nudity. No employee or independent contractor shall be unclothed or in such less than opaque or complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals.

(3) Simulated Anatomy. No employee or independent contractor shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, any portion of the pubic region or buttocks.

(4) Sexual Acts – Employees. No employee or independent contractor shall perform actual or simulated acts of sexual conduct or any act which con-

stitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.

(5) Sexual Touching – Patrons. No employee or independent contractor shall caress, fondle or erotically touch any member of the public. No employee shall encourage or permit any member of the public to caress, fondle or erotically touch any employee.

(6) Admission. Admission must be restricted to persons of the age of 18 years or more. It shall be unlawful for any owner, operator, manager or other person in charge of an adult motion picture theater or adult drive-in to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.

(7) Employees, Independent Contractors. All managers, ushers, projectionists, employees and independent contractors shall be over the age of 18 years.

(8) Signage. No photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breast below the top of the areola or any portion of the pubic area, genitals, buttocks and/or anus may be visible outside the premises, or in the case of a drive-in theater, outside the property of the adult drive-in.

(9) Access to Nonpublic Areas. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the adult motion picture theater or adult drive-in theater; except that authorized vendors or service personnel delivering goods and materials, food and beverages or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

(10) Exterior Lighting. All on-site parking areas and premises entries for an adult motion picture theater shall be illuminated from dusk until one hour past closing hours of operation with a lighting system that provides an average maintained horizontal illumination of one footcandle of light on the parking surface and/or walkways. An on-premises exterior lighting plan shall be included in the application for license submitted to the clerk. (Ord. 2070 § 3, 1996).

5.80.100 Record keeping.

(1) All papers, records and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when the licensed premises are open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the papers, records and things meet the requirements of this chapter.

(2) Each adult cabaret shall maintain and retain for a period of two years the name, address and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer or to act as a manager or security personnel, including independent contractors and their employees. Each adult motion picture theater or adult drive-in theater shall maintain and retain for a period of two years the name, address and age of each person employed or otherwise retained to act as manager, projectionist or usher, including independent contractors and their employees. This information shall be open to inspection by the clerk during hours of operation of the business upon 24 hours' notice to the licensee. (Ord. 2070 § 3, 1996).

5.80.110 Inspections.

In order to insure compliance with this chapter, all areas of licensed adult cabarets, adult motion picture theaters and adult drive-in theaters which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter. (Ord. 2070 § 3, 1996).

5.80.120 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in MMC 6.03.120. (Ord. 2070 § 3, 1996).

5.80.130 Severability.

Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2070 § 3, 1996).

Chapter 5.84

ADULT PANORAMS

Sections:

5.84.010 Definitions.
5.84.020 License required.
5.84.030 Adult panoram license.
5.84.040 Adult panoram manager and assistant manager licenses.
5.84.050 Panoram device license.
5.84.060 Denials of license.
5.84.070 Suspension or revocation of licenses – Notice – Summary suspension or revocation.
5.84.080 Standards of conduct and operation – Adult panorams.
5.84.090 Record keeping.
5.84.100 Inspections.
5.84.110 Misdemeanor.
5.84.120 Severability.

5.84.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

(1) "Adult panoram establishment" or "adult panoram" means a business in a building or a portion of a building which contains device(s) which for payment of a fee, membership fee or other charge, is used to exhibit or display a picture, view, or other graphic display distinguished or characterized by emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." An establishment shall be considered a commercial establishment and an adult panoram, regardless of the form of the organization, whether a proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An establishment shall be considered a commercial establishment even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(2) "Applicant" means the individual or entity seeking a license to operate an adult panoram establishment. Upon issuance of a license, the applicant may be referred to as the "licensee."

(3) "Applicant control person" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the business, based on responsibility for the management of the business.

(4) "Clerk" shall mean the city clerk or deputy city clerk as appointed pursuant to the provisions of Chapter 2.30 MMC.

(5) "Employee or independent contractor" means any and all persons, including managers and entertainers, who work in or at or render any services directly related to the operation of an adult panoram.

(6) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter 2.70 MMC.

(7) "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at an adult panoram. An "assistant manager" shall be that person who, in the absence of the manager, shall undertake the duties of the manager as defined by this section.

(8) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.

(9) "Specified anatomical areas" means:

(a) Less than completely and/or opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola;

(b) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

(10) "Specified sexual activities" means:

(a) Acts of human masturbation, sexual intercourse or sodomy;

(b) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;

(c) Human genitals in a state of sexual stimulation or arousal. (Ord. 2450 § 1, 2002; Ord. 2070 § 4, 1996).

5.84.020 License required.

(1) It is unlawful for any person to conduct, manage or operate an adult panoram unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.

(2) It is unlawful for any employee, independent contractor or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to, the operation of an unlicensed adult panoram.

(3) It is unlawful for any manager or assistant manager to work in an adult panoram unless such person is the holder of a valid and subsisting license from the city to do so.

(4) It is unlawful to exhibit, display or provide for public use any panoram device upon any adult panoram establishment without having first obtained a license for each such panoram device. (Ord. 2070 § 4, 1996).

5.84.030 Adult panoram license.

(1) All applications for an adult panoram license shall be submitted to the clerk in the name

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of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

(a) For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.

(b) If a partnership, whether general or limited, the names and addresses of the partners; and if a corporation, date and place of incorporation, names and addresses of corporate officers, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

(c) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult entertainment, including adult motion picture theaters, adult drive-in theaters, or adult cabarets from the city or another city, county or state, and, if so, the names and addresses of each other licensed business.

(d) A summary of the business history of the applicant and applicant control persons in owning or operating adult panorams, or adult cabarets, adult motion picture theaters, adult drive-in theaters, or bikini clubs, providing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.

(e) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.

(f) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

(g) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.

(h) The location and doing-business-as name of the proposed adult panoram, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

(i) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

(j) A complete set of fingerprints for the applicant or each applicant control person taken by Marysville police department employees.

(k) A scale drawing or diagram showing the configuration of the premises for the proposed adult panoram, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. The location of each panoram device, seating areas, manager's office and manager's stations, restrooms and service areas shall be clearly marked on the drawing.

(2) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

(3) A nonrefundable application fee of $700.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be $500.00.

(4) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(5) If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice required shall include the information required for the original license application.

(6) The adult panoram license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed adult panoram. The license shall be posted in a conspicuous place at or near the entrance to the adult panoram so that it can be easily read at anytime the business is open.

(7) No person granted a license pursuant to this chapter shall operate the business under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the

license. A separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) A license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days. (Ord. 2070 § 4, 1996).

5.84.040 Adult panoram manager and assistant manager licenses.

(1) No person shall work as a manager or assistant manager at an adult panoram without a manager or assistant manager license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application for a manager or assistant manager. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be $75.00.

(5) An applicant for a manager's or assistant manager's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day following the filing of the complete application and fee, unless the clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the clerk extend the application review time for more than an additional 20 days. If the clerk determines that the manager or assistant manager has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. (Ord. 2134 § 2, 1997; Ord. 2070 § 4, 1996).

5.84.050 Panoram device license.

All applications for a panoram device license shall be submitted to the city clerk on a form supplied by the city, which shall require the following information:

(1) The business name, address and telephone number of the location of the panoram device;

(2) The name, address and telephone number of the owner of the panoram device;

(3) A description of each of the panoram devices located at the location described in subsection (1) of this section. (Ord. 2070 § 4, 1996).

5.84.060 Denials of license.

Should the person seeking a license under this chapter disagree with the clerk's determination, the applicant must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the notification of denial.

(1) The city shall, within five working days following receipt of the notice of nonacceptance, apply to the superior court for a judicial determination as to whether the applicant's license was properly denied. The burden of showing that the applicant's license was properly denied shall rest on the city.

(2) If a preliminary judicial determination sustaining the city's denial of the subject license is not obtained within five working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within 20 days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned 20-day period. (Ord. 2070 § 4, 1996).

5.84.070 Suspension or revocation of licenses – Notice – Summary suspension or revocation.

(1) The city clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

(a) The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

(c) The applicant, applicant control person, manager or assistant manager has violated or per-

mitted violation of any of the provisions of this chapter.

(2) The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the city clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter 2.70 MMC):

(a) The hearing shall be held no earlier than three and no later than 10 working days from the date of notice of intent to revoke.

(b) The licensee shall be permitted to present evidence in support of his position at the hearing.

(c) Within two working days after the hearing, the hearing examiner shall notify the licensee in writing of his/her determination and reasons therefor.

(d) Should the licensee disagree with the determination, he/she must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the hearing examiner's determination.

(e) In the event that a notice of nonacceptance is not filed, the hearing examiner's determination shall become final and the suspension/revocation shall be given immediate effect.

(3) The city shall, within five working days following receipt of a notice of nonacceptance, file a complaint with the superior court enjoining the licensee from operating his/her business. The burden of proof shall be on the city. The status quo shall be maintained and the clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered. (Ord. 2070 § 4, 1996).

5.84.080 Standards of conduct and operation – Adult panorams.

The following standards of conduct and operation must be adhered to by an adult panoram:

(1) Main Aisle. The entire interior of the panoram premises shall be arranged in such a manner so that each panoram station or device therein is entered from a continuous main aisle at least five feet in width. The only access to a station or device shall be from the main aisles.

(2) View. The view from the continuous main aisle of any person inside a station shall not be obstructed except by a door, curtain or other screening device as permitted by this chapter.

(3) Doors. The bottom of any door, curtain or screening device shall be not less than 27 inches above the floor of the panoram station or device where the occupant sits in a chair or on a seating surface to view the panoram. In panoram stations where the occupant stands to view the panoram, the bottom of any door, curtain or screening device shall not be less than 36 inches above the floor of the panoram station.

(4) Restriction on Seating. No panoram station or device having a door, curtain or other screening device at its entrance shall contain any chair or other seating surface unless the door, curtain or screening device has at a location between 66 and 78 inches above the floor an opening 12 inches in height and at least 24 inches in width which provides an unobstructed view through either open space or clear and clean window glass to the side walls and back walls of the station. Any chair or seating surface in such panoram station shall not provide a seating surface more than 20 inches in either length or width, and shall not be higher than 20 inches from the floor. There shall not be more than one such chair or seating surface in any panoram station. Occupancy of a station or device shall be limited to one person.

(5) No Locking, No Holes. Doors, curtains or screening devices on panoram stations shall not be capable of being locked. There shall be no holes in partitions between panoram stations or devices.

(6) Interior Lighting, Sufficient interior lighting shall be provided and equally distributed throughout the public areas of the adult panoram so that all objects are plainly visible at all times and all parts of the public areas shall be illuminated so that patrons with normal vision on any part of the public areas of the premises shall be able to read written textual material printed in eight-point types. A sample of eight-point type follows:

This is a sample of eight-point type.

(7) Floor-Level. The entire floor area of a panoram station or device shall be level with the continuous main aisle. No steps or risers shall be allowed in any such station.

(8) Signage. There shall be permanently posted and maintained in at least two conspicuous locations on the interior of every panoram premises a sign stating substantially the following:

> Occupancy of any station (booth) is at all times limited to only one person. There is to be no masturbation or exposure of genitals in the panoram stations (booths) or on the panoram premises. Violators are subject to criminal prosecution under either state law or local ordinance as may be adopted or amended from time to time.

The signs shall be conspicuously displayed in the public area of the premises. Letters shall be at least one inch high and be on a sign at least two feet by two feet.

In addition, on each panoram station or device, a sign shall be conspicuously displayed containing the same message as above. The sign on each panoram device shall be of a minimum size of eight and one-half inches by 11 inches and the letters should be at least one-half inch high.

(9) No Warning Devices. No warning system or device shall be permitted on the premises for the purpose of warning customers or patrons or any other persons occupying panoram devices or stations located on licensee's premises that police officers or city health, fire, licensing or building inspectors are approaching or have entered the licensee's premises.

(10) Admission. Admission must be restricted to persons of the age of 18 years or more. It shall be unlawful for any owner, operator, manager, or other person in charge of an adult panoram to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.

(11) Employees and Independent Contractors. All managers, employees and independent contractors shall be over the age of 18 years. (Ord. 2070 § 4, 1996).

5.84.090 Record keeping.

(1) All papers, records and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when the licensed premises are open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the papers, records and things meet the requirements of this chapter.

(2) Each adult panoram shall maintain and retain for a period of two years the name, address and age of each person employed or otherwise retained as a manager or assistant manager. This information shall be open to inspection by the clerk during hours of operation of the business upon 24 hours' notice to the licensee. (Ord. 2070 § 4, 1996).

5.84.100 Inspections.

In order to insure compliance with this chapter, all areas of licensed adult panorams which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter. (Ord. 2070 § 4, 1996).

5.84.110 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in MMC 6.03.120. (Ord. 2070 § 4, 1996).

5.84.120 Severability.

Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2070 § 4, 1996).

Chapter 5.88

BIKINI CLUBS

Sections:

5.88.010 Definitions.
5.88.020 License required.
5.88.030 Bikini club licenses.
5.88.040 Bikini club manager, assistant manager, security personnel and entertainer licenses.
5.88.050 Denials of license.
5.88.060 Suspension or revocation of licenses – Notice – Summary suspension or revocation.
5.88.070 Standards of conduct and operation – Bikini clubs.
5.88.080 Record keeping.
5.88.090 Inspections.
5.88.100 Misdemeanor.
5.88.110 Severability.

5.88.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

(1) "Applicant" means the individual or entity seeking a license to operate a bikini club in the city of Marysville. Upon issuance of a license, the applicant may be referred to as the "licensee."

(2) "Applicant control person" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the business, based on responsibility for the management of the business. An applicant shall be considered an "adult applicant" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "applicant" even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(3) "Beginning work" shall mean engaged in activities for a business required to be licensed by this chapter, whether the relationship is deemed between employer and employee or owner and independent contractor.

(4) "Bikini club" is a building or a portion of a building, not an adult cabaret, but which contains any exhibition or dance wherein any employee or entertainer is paid by a member or members of the adult public directly for the privilege of viewing the dance or exhibition.

(5) "Clerk" shall mean the city clerk or deputy city clerk as appointed pursuant to the provisions of Chapter 2.30 MMC.

(6) "Employee" or "independent contractor" means any and all persons, including managers and entertainers, who work in or at or render any services directly related to the operation of a bikini club.

(7) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter 2.70 MMC.

(8) "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at a bikini club. An "assistant manager" shall be that person who, in the absence of the manager or jointly with the manager, shall undertake the duties of the manager as defined by this section.

(9) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.

(10) "Security personnel" means those persons at a bikini club who are either responsible for admissions to the bikini club or who act to preserve the peace in the facility through the control of the patrons or employees or independent contractors in the facility. (Ord. 2448 § 1, 2002; Ord. 2070 § 5, 1996).

5.88.020 License required.

(1) It is unlawful for any person to conduct, manage or operate a bikini club unless such person is the holder of a valid and subsisting license from the city to do so obtained in the manner provided in this chapter.

(2) It is unlawful for any entertainer or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to, the operation of an unlicensed bikini club.

(3) It is unlawful for any employee or independent contractor or entertainer to perform in a bikini club unless such person is the holder of a valid and subsisting license from the city to do so.

(4) It is unlawful for any manager or assistant manager to work in a bikini club unless such person is the holder of a valid and subsisting license from the city to do so.

(5) It is unlawful for any security personnel to work in a bikini club unless such person is the holder of a valid and subsisting license from the city to do so. (Ord. 2070 § 5, 1996).

5.88.030 Bikini club licenses.

(1) All applications for a bikini club license shall be submitted to the clerk in the name of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All applications shall

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be submitted on a form supplied by the city, which shall require the following information:

(a) For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.

(b) If a partnership, whether general or limited, the names and addresses of all partners; and if a corporation, date and place of incorporation, names and addresses of all shareholders, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

(c) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult cabaret, adult motion picture theater, adult drive-in theater, or adult panorams, from the city or another city, county or state, and if so, the names and addresses of each other licensed business.

(d) A summary of the business history of the applicant and applicant control persons in owning or operating a bikini club, an adult cabaret, adult motion picture theater, adult drive-in or an adult panoram, providing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.

(e) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.

(f) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

(g) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.

(h) The location and doing-business-as name of the proposed bikini club, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

(i) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

(j) A complete set of fingerprints for the applicant or each applicant control person taken by Marysville police department employees.

(k) A scale drawing or diagram showing the configuration of the premises for the proposed bikini club, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. When required, an exterior lighting plan shall be submitted also.

(2) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

(3) A nonrefundable application fee of $700.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be $500.00.

(4) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(5) If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk no later than 21 days following such acquisition. The notice required shall include the information required for the original license application.

(6) The bikini club license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed bikini club. The license shall be posted in a conspicuous place at or near the entrance to the bikini club so that it can be easily read at anytime the business is open.

(7) No person granted a license pursuant to this chapter shall operate the business under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the license. A separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) A license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days. (Ord. 2070 § 5, 1996).

5.88.040 Bikini club manager, assistant manager, security personnel and entertainer licenses.

(1) No person shall work as a manager, assistant manager, security personnel or entertainer at a bikini club without an entertainer's, manager's, or security personnel's license from the city. Each applicant for a manager's, security personnel's or entertainer's license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. The license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, Social Security number, and in the entertainer's application any stage names or nicknames used in entertaining.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Every entertainer and each and all security personnel shall provide his or her license to the bikini club manager on duty on the premises prior to beginning work. The manager shall retain the licenses of the entertainers and security personnel readily available for inspection by the city at any time during business hours of the bikini club.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A bikini club manager's or security personnel's or entertainer's license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for a bikini club manager's or security personnel's license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as a bikini club manager or as security personnel in a duly licensed bikini club until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) An applicant for an entertainer's, manager's, assistant manager's or security personnel's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day following the filing of the complete application and fee, unless the clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the clerk extend the application review time for more than an additional 20 days. If the clerk determines that the entertainer, manager, assistant manager, or security personnel has failed to quality for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws.

(5) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager, assistant manager, entertainer or for security personnel shall be $75.00. (Ord. 2134 § 3, 1997; Ord. 2070 § 5, 1996).

5.88.050 Denials of license.

Should the person seeking a license under this chapter disagree with the clerk's determination, the applicant must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the notification of denial.

(1) The city shall, within five working days following receipt of the notice of nonacceptance, apply to the superior court for a judicial determination as to whether the applicant's license was properly denied. The burden of showing that the applicant's license was properly denied shall rest on the city.

(2) If a preliminary judicial determination sustaining the city's denial of the subject license is not obtained within five working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within 20 days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned 20-day period. (Ord. 2070 § 5, 1996).

5.88.060 Suspension or revocation of licenses – Notice – Summary suspension or revocation.

(1) The city clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

(a) The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

(c) The applicant, applicant control person, manager, assistant manager, entertainer, or security personnel has violated or permitted violation of any of the provisions of this chapter.

(2) The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the city clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter 2.70 MMC):

(a) The hearing shall be held no earlier than three and no later than 10 working days from the date of notice of intent to revoke.

(b) The licensee shall be permitted to present evidence in support of his position at the hearing.

(c) Within two working days after the hearing, the hearing examiner shall notify the licensee in writing of his/her determination and reasons therefor.

(d) Should the licensee disagree with the determination, he/she must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the hearing examiner's determination.

(e) In the event that a notice of nonacceptance is not filed, the hearing examiner's determination shall become final and the suspension/revocation shall be given immediate effect.

(3) The city shall, within five working days following receipt of a notice of nonacceptance, file a complaint with the superior court enjoining the licensee from operating his/her business or acting pursuant to his/her license. The burden of proof shall be on the city. The status quo shall be maintained and the clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered. (Ord. 2070 § 5, 1996).

5.88.070 Standards of conduct and operation – Bikini clubs.

The following standards of conduct and operation must be adhered to by a bikini club and its employees and independent contractors:

(1) Required on Premises. While open to the public, a licensed manager and/or assistant manager shall be on premises at all times. While open to the public, licensed, uniform-wearing security personnel in the following numbers shall be on premises at all times:

Patron Seating	Number of Uniformed Security Personnel
Less than 50 seats	1
50 to 100 seats	2
100 to 150 seats	3
More than 150 seats	4

(2) Nudity. No employee, independent contractor or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals.

(3) Simulated Anatomy. No employee, independent contractor or entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, any portion of the pubic region, or buttocks.

(4) Sexual Touching – Patrons. No employee, independent contractor or entertainer shall caress, fondle, or erotically touch any member of the public. No employee, independent contractor or entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee, independent contractor or entertainer.

(5) Sexual Acts – Employees. No employee, independent contractor or entertainer shall perform actual or simulated acts of sexual conduct, or any act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.

(6) Four Feet. No employee, independent contractor or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the nonstage area of the bikini club unless that dance, performance or exhibition is performed at a distance of no less than four feet from any member of the public.

(7) Gratuities. No payment, tip or gratuity offered to or accepted by an entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon any stage area shall be permitted to accept any form of payment or gratuity offered directly to the entertainer by any member of the public. Any payment or gratuity offered to any entertainer performing upon any stage area must be provided through a manager on duty on the premises. Any payment, gratuity or tip offered to

any entertainer conducting any performance, dance or exhibition in or about the nonstage area of the bikini club shall be placed into the hand of the entertainer or into a receptacle provided by the entertainer, and not upon the person or into the clothing of the entertainer.

(8) Admission. Admission must be restricted to persons of the age of 18 years or more. It shall be unlawful for any owner, operator, manager, or other person in charge of a bikini club to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.

(9) Employees, Independent Contractors. All employees, independent contractors or entertainers, managers and security personnel shall be over the age of 18 years.

(10) Signage. Neither the performance nor any photograph, drawing, sketch, or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the bikini club.

(11) Access to Nonpublic Areas. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the bikini club, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees or independent contractors, and the kitchen and storage areas; except that authorized vendors or service personnel delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

(12) Interior Lighting. Sufficient interior lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times and all parts of the public areas shall be illuminated so that patrons with normal vision on any part of the public areas of the premises shall be able to read written textual material printed in eight-point type. A sample of eight-point type follows:

This is a sample of eight-point type.

(13) Exterior Lighting. All on-site parking areas and premises entries shall be illuminated from dusk until one hour past closing hours of operation with a lighting system that provides an average maintained horizontal illumination of one footcandle of light on the parking surface and/or walkways. An on-premises exterior lighting plan shall be included in the application for license submitted to the clerk.

(14) Signs. Two signs at least two feet by two feet, and one in the immediate area of the entrance, with letters at least one inch high shall be conspicuously displayed in the public area(s) of the premises stating the following:

> THIS BIKINI CLUB IS REGULATED BY THE CITY OF MARYSVILLE. ENTERTAINERS ARE:
>
> 1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
>
> 2. NOT PERMITTED TO APPEAR SEMINUDE OR NUDE.
>
> 3. NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE.
>
> 4. NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA.
>
> 5. WHILE PERFORMING IN NONSTAGE AREAS, NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES EXCEPT THOSE PLACED IN THE ENTERTAINER'S HAND OR A RECEPTACLE.

(Ord. 2070 § 5, 1996).

5.88.080 Record keeping.

(1) All papers, records and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when the licensed premises are open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the papers, records and things meet the requirements of this chapter.

(2) Each bikini club shall maintain and retain for a period of two years the name, address and age of each person employed or otherwise retained or allowed to perform on the premises as an entertainer or to act as a manager or security personnel, including independent contractors and their employees. This information shall be open to inspection by the clerk during hours of operation of the business upon 24 hours' notice to the licensee. (Ord. 2070 § 5, 1996).

5.88.090 Inspections.

In order to insure compliance with this chapter, all areas of a licensed bikini club which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter. (Ord. 2070 § 5, 1996).

5.88.100 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in MMC 6.03.120. (Ord. 2070 § 5, 1996).

5.88.110 Severability.

Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2070 § 5, 1996).

Chapter 5.92

PUBLIC BATH HOUSES, BODY SHAMPOO PARLORS AND TATTOO PARLORS

Sections:

5.92.010 Definitions.
5.92.020 License required.
5.92.030 Public bath houses, body shampoo parlors and tattoo parlors licenses.
5.92.050 Public bath house manager, assistant manager and attendant licenses.
5.92.060 Body shampoo parlor manager, assistant manager and attendant licenses.
5.92.070 Tattoo parlor manager, employee and independent contractor licenses.
5.92.080 Denials of license.
5.92.090 Suspension or revocation of licenses – Notice – Summary suspension or revocation.
5.92.100 Standards of conduct and operation – Public bath house and body shampoo parlor.
5.92.110 Standards of conduct and operation – Tattoo parlors.
5.92.120 Misdemeanor.
5.92.130 Inspections.
5.92.140 Severability.

5.92.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

(1) "Applicant" means the individual or entity seeking a license to operate a public bath house, body shampoo parlor or tattoo parlor in the city of Marysville. Upon issuance of a license, the applicant may be referred to as the "licensee." An applicant shall be considered an "applicant" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "applicant" even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise.

(2) "Applicant control person" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the business, based on responsibility for the management of the business.

(3) "Attendant" means an employee or independent contractor who is present at a public bathhouse or body shampoo parlor while a patron's body is bathed, washed, or shampooed.

(4) "Beginning work" shall mean engaged in activities for a business required to be licensed by this chapter, whether the relationship is deemed between employer and employee or owner and independent contractor.

(5) "Body shampoo parlor" means any place open to the public where an attendant is present and a patron's body is washed or shampooed. A body shampoo parlor shall not include any barber or beauty salon, medical facility or nursing home facility where a customer or patient may be washed, shaved and/or shampooed.

(6) "Clerk" shall mean the city clerk or deputy city clerk as appointed pursuant to the provisions of Chapter 2.30 MMC.

(7) "Employee" or "independent contractor" means any and all persons, including managers, who work in or at or render any services directly related to the operation of a public bath house, body shampoo parlor or tattoo parlor.

(8) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter 2.70 MMC.

(9) "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity at a public bath house, body shampoo parlor or tattoo parlor. An "assistant manager" shall be that person who, in the absence of the manager or jointly with the manager, shall undertake the duties of the manager as defined by this section.

(10) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.

(11) "Public bath house" means any place open to the public where Russian, Turkish, Swedish, hot air, vapor, electric cabinet or other baths of any kind are given or furnished; provided, that the term "public bath house" shall not include ordinary tub baths where an attendant is not provided; and provided further, that a public bath house shall not include a club as defined by MMC 19.08.095 organized for athletic purposes, or a country club as defined by MMC 19.08.127.

(12) "Tattoo parlor" means any premises at which tattooing is provided as a service to the public. (Ord. 2451 § 1, 2002; Ord. 2070 § 6, 1996).

5.92.020 License required.

(1) It is unlawful for any person to conduct, manage or operate any of the following businesses unless such person is the holder of valid and subsisting license from the city to do so, obtained in the manner provided in this chapter: public bath house, body shampoo parlor, or tattoo parlor.

(2) It is unlawful for any manager, assistant manager or attendant to begin work in a public bath house unless such person is the holder of a valid and subsisting license from the city to do so.

(3) It is unlawful for any manager, assistant manager or attendant to knowingly work in or about or to knowingly perform any service related to the operation of an unlicensed public bath house.

(4) It is unlawful for a manager, assistant manager or attendant to begin work in a body shampoo parlor unless the person is a holder of a valid and subsisting license from the city to do so.

(5) It is unlawful for a manager, assistant manager or attendant to knowingly work in or about or to knowingly perform any service directly related to the operation of an unlicensed body shampoo parlor.

(6) It is unlawful for a manager or an employee or independent contractor to work in a tattoo parlor unless the manager or employee or independent contractor is a holder of a valid and subsisting license from the city to do so.

(7) It is unlawful for a manager to knowingly work in or about or to knowingly perform any service related to the operation of an unlicensed tattoo parlor. (Ord. 2070 § 6, 1996).

5.92.030 Public bath houses, body shampoo parlors and tattoo parlors licenses.

(1) All applications for either a public bath house, body shampoo parlor or tattoo parlor license shall be submitted to the clerk in the name of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

(a) For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.

(b) If a partnership, whether general or limited, the names and addresses of all partners; and if a corporation, date and place of incorporation, names and addresses of all shareholders, evidence that it is in good standing under the laws of Wash-

ington, and name and address of any registered agent for service of process.

(c) Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult cabaret, adult motion picture theater, adult drive-in theater, adult panoram or bikini club from the city or another city, county or state, and if so, the names and addresses of each other licensed business.

(d) A summary of the business history of the applicant and applicant control persons in owning or operating a public bath house, body shampoo parlor or tattoo parlor providing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.

(e) For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition.

(f) For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

(g) Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.

(h) The location and doing-business-as name of the proposed public bath house, body shampoo parlor or tattoo parlor including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

(i) Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

(j) A complete set of fingerprints for the applicant or each applicant control person taken by Marysville police department employees.

(k) A scale drawing or diagram showing the configuration of the premises for the proposed public bath house, body shampoo parlor or tattoo parlor, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing.

(2) An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

(3) A nonrefundable application fee of $500.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be $300.00.

(4) Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

(5) If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice required shall include the information required for the original license application.

(6) The public bath house, body shampoo parlor or tattoo parlor license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed public bath house, body shampoo parlor or tattoo parlor. The license shall be posted in a conspicuous place at or near the entrance to the public bath house, body shampoo parlor or tattoo parlor, so that it can be easily read at anytime the business is open.

(7) No person granted a license pursuant to this chapter shall operate the business under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the license. A separate license shall be required for each type of business covered by this chapter, and a separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and shall make a written report to the

clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings

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submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) A license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days. (Ord. 2070 § 6, 1996).

5.92.050 Public bath house manager, assistant manager and attendant licenses.

(1) No person shall work as a manager, assistant manager, attendant at a public bath house without a manager, assistant manager, or attendant license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of $25.00 shall accompany the application for an attendant. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the public bath house.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter,

has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be $75.00. The annual renewal fee for an attendant shall be $20.00. (Ord. 2070 § 6, 1996).

5.92.060 Body shampoo parlor manager, assistant manager and attendant licenses.

(1) No person shall work as a manager, assistant manager, or attendant at a body shampoo parlor without a manager, assistant manager, or attendant license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of $25.00 shall accompany the application for an attendant. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the body shampoo parlor.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be

valid for one year and must be annually renewed. The annual renewal fee for a manager or assistant manager shall be $75.00. The annual renewal fee for an attendant shall be $20.00. (Ord. 2070 § 6, 1996).

5.92.070 Tattoo parlor manager, employee and independent contractor licenses.

(1) No person shall work as a manager, employee or independent contractor at a tattoo parlor without a manager, employee or independent contractor license from the city. Each applicant for a license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable application fee of $100.00 shall accompany the application for a manager or assistant manager. A nonrefundable fee of $25.00 shall accompany the application for an employee or independent contractor. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. Each license application shall require the following information:

(a) The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Marysville police department employees, and Social Security number.

(b) The name and address of each business at which the applicant intends to work.

(c) Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

(i) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(ii) A state-issued identification card bearing the applicant's photograph and date of birth;

(iii) An official passport issued by the United States of America;

(iv) An immigration card issued by the United States of America; or

(v) Any other identification that the city determines to be acceptable.

(d) A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

(e) A description of the applicant's principal activities or services to be rendered.

(f) Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only the full face.

(g) Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

(h) Each person licensed by this section shall provide a copy of his or her license to the manager on duty on the premises where said person works. The manager shall retain the copy of the licenses readily available for inspection by the city at any time during business hours of the tattoo parlor.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this chapter.

(3) A license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager shall be $75.00. The annual renewal fee for an employee or independent contractor shall be $20.00. (Ord. 2070 § 6, 1996).

5.92.080 Denials of license.

Should the person seeking a license under this chapter disagree with the clerk's determination, the applicant must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the notification of denial.

(1) The city shall, within five working days following receipt of the notice of nonacceptance, apply to the superior court for a judicial determination as to whether the applicant's license was properly

denied. The burden of showing that the applicant's license was properly denied shall rest on the city.

(2) If a preliminary judicial determination sustaining the city's denial of the subject license is not obtained within five working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within 20 days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned 20-day period. (Ord. 2070 § 6, 1996).

5.92.090 Suspension or revocation of licenses – Notice – Summary suspension or revocation.

(1) The city clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

(a) The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;

(c) The applicant, applicant control person, manager, assistant manager, attendant, employee or independent contractor providing or doing tattoos has violated or permitted violation of any of the provisions of this chapter.

(2) The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the city clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter 2.70 MMC):

(a) The hearing shall be held no earlier than three and no later than 10 working days from the date of notice of intent to revoke.

(b) The licensee shall be permitted to present evidence in support of his position at the hearing.

(c) Within two working days after the hearing, the hearing examiner shall notify the licensee in writing of his/her determination and reasons therefor.

(d) Should the licensee disagree with the determination, he/she must file a notice of nonacceptance with the city attorney's office within 10 working days of receipt of the hearing examiner's determination.

(e) In the event that a notice of nonacceptance is not filed, the hearing examiner's determination shall become final and the suspension/revocation shall be given immediate effect.

(3) The city shall, within five working days following receipt of a notice of nonacceptance, file a complaint with the superior court enjoining the licensee from operating his/her business or acting pursuant to his/her license. The burden of proof shall be on the city. The status quo shall be maintained and the clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered. (Ord. 2070 § 6, 1996).

5.92.100 Standards of conduct and operation – Public bath house and body shampoo parlor.

The following standards of conduct and operation must be adhered to by a public bath house, a body shampoo parlor, and respectively, their employees and independent contractors:

(1) Required on Premises. While open to the public, a licensed manager and/or assistant manager shall be on premises at all times when the facility is open to receive customers.

(2) Nudity. No employee or independent contractor shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals.

(3) Age of Employees. No employee or independent contractor shall be under the age of 18 years. It shall be unlawful for the owner, the manager or assistant manager to knowingly permit or allow any person under the minimum age of 18 years to work or provide services at a public bath house or body shampoo parlor.

(4) Inspections. In order to insure compliance, public bath houses and body shampoo parlors shall be open to inspection by city agents and employees during the hours when the premises are open for

business. The purpose of such inspection shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. (Ord. 2070 § 6, 1996).

5.92.110 Standards of conduct and operation – Tattoo parlors.

The following standards of conduct and operation must be adhered to by a tattoo parlor and its employees and independent contractors:

(1) Required on Premises. While open to the public, a licensed manager and/or employee or independent contractor shall be on premises at all times when the business is open for operation.

(2) Posting of License. The license of a tattoo parlor licensed under this chapter shall be posted in a conspicuous place at the tattoo parlor.

(3) Admission. Without the written consent of a parent or guardian, tattooing shall not be performed on persons under the age of 18 years. A tattoo parlor shall be required to obtain sufficient proof of age prior to beginning with tattooing to ensure that all patrons tattooed are at least 18 years of age. Any of the following shall be considered as appropriate documentation of age:

(a) A motor vehicle operator's license issued by any state bearing the patron's photograph and date of birth;

(b) A state-issued identification card bearing the patron's photograph and date of birth;

(c) An official passport issued by the United States of America;

(d) An immigration card issued by the United States of America.

It shall be unlawful for a tattoo parlor to tattoo a person under the age of 18 without written consent from the patron's parent or guardian.

(4) Record Keeping. Before any tattooing operation starts, the patron should be required personally to enter on a record form provided by the shop his/her name, age, address and, if service personnel, serial number and his/her signature. Such records shall be maintained by the tattoo parlor. Upon receipt of payment for a tattoo, the tattoo parlor shall issue a receipt to each patron containing the name and address of the tattoo parlor and the tattoo parlor's license number. A duplicate copy of each such receipt shall be maintained by the tattoo parlor.

(5) Health Regulations.

(a) Tattooing should be done only on normal, healthy skin surface. No tattooing should be done on scar tissue. No tattoo operator shall remove any tattoo marks.

(b) A new, clean, disposable safety razor shall be used for each patron for preparation of any areas to be tattooed.

(c) Before shaving, the area to be tattooed shall be thoroughly cleaned with tincture of green soap (U.S.P.) or its equivalent. After shaving the area to be tattooed, 70 percent alcohol (rubbing alcohol) must be applied to the skin.

(d) Only carbolated vaseline or its equivalent may be used on the area to be tattooed.

(e) All dyes used shall be mixed with alcohol or a stock solution of phenolized listerine. All dyes used shall be manufactured by a reputable dye manufacturing company and used without alteration of the manufacturer's original formula.

(f) Excess dye shall be removed from the skin with an individual sterile gauze, sterile cotton or sterile napkin. Completed tattoos shall be washed with a piece of sterile gauze or cotton saturated with a solution of tincture of green soap or equivalent. Thereafter the area shall be disinfected with 70 percent alcohol (rubbing alcohol). The tattooed area shall be allowed to dry and carbolated vaseline or its equivalent and sterile gauze shall be applied.

(g) Printed or mimeographed instructions approved by the Snohomish health district, if available, shall be given to each patron on the care of the skin as a precaution against infection after tattooing. (Ord. 2070 § 6, 1996).

5.92.120 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in MMC 6.03.120. (Ord. 2070 § 6, 1996).

5.92.130 Inspections.

In order to insure compliance with this chapter, inspections by city agents and employees during the hours of business operation shall be permitted. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with this chapter. (Ord. 2070 § 6, 1996).

5.92.140 Severability.

Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2070 § 6, 1996).

Chapter 5.96

BODY STUDIOS

Sections:
5.96.010 Definitions.
5.96.020 Prohibited.
5.96.030 Misdemeanor.

5.96.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, a "body studio" means any premises upon which is furnished for a fee or charge or like consideration the opportunity to paint, feel, handle or touch the unclothed body or unclothed portion of the body of another person or to be so painted, felt, handled, or touched by another person or to observe, view or photograph any such activity, and shall include any such premises which are advertised or represented in any manner as an adult body-painting studio, model studio, sensitivity awareness studio, or any other expression or characterization which characterizes the same or a similar meaning. It does not include a massage parlor operated by massage therapists licensed by the state of Washington. An establishment shall be considered a body studio, regardless of the form of the organization, whether a proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An establishment shall be considered a body studio even though its patrons are members, and it characterizes itself as a club, fraternal organization, church, society or otherwise. (Ord. 2443 § 1, 2002; Ord. 2070 § 8, 1996).

5.96.020 Prohibited.

(1) It is unlawful for any person to conduct, manage or operate a body studio within the city of Marysville.

(2) It is unlawful for any person to knowingly work in or about a body studio in the city of Marysville. (Ord. 2070 § 8, 1996).

5.96.030 Misdemeanor.

Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in MMC 6.03.120. (Ord. 2070 § 8, 1996).

Title 6

PENAL CODE[1]

Chapters:

6.03 General Provisions
6.06 Adoption of State Provisions
6.09 Liability, Defenses and Anticipatory Offenses
6.12 Interference with Official Proceedings
6.15 Obstructing Governmental Operation
6.18 Abuse of Office
6.21 Assault and Other Crimes Involving Physical Harm
6.22 Registration of Sex Offenders
6.24 Public Nuisances
6.25 Graffiti Nuisance
6.27 Controlled Substances and Drug Paraphernalia
6.30 Public Indecency – Prostitution – Sex Crimes
6.33 Obscenity and Pornography
6.36 Loitering
6.37 Pedestrian Interference
6.39 Bird Sanctuary
6.42 Theft
6.45 Fraud
6.48 Burglary and Trespass
6.50 Harassment
6.51 Arson, Reckless Burning and Malicious Mischief
6.54 Public Disturbances
6.56 Domestic Violence
6.57 Offenses by and Against Minors
6.58 Alcoholic Beverage Control
6.60 Weapons Control
6.76 Noise Regulation
6.79 Burglar Alarms
6.80 Curfew

1. For provisions regarding fireworks, see Chapter 9.20 MMC; for provisions regarding destruction of library property, see Chapter 2.08 MMC; for provisions regarding nuisances pertaining to public health, see Chapter 7.04 MMC.

Chapter 6.03

GENERAL PROVISIONS

Sections:

6.03.010 Short title.
6.03.020 Effective date.
6.03.030 Provisions not retroactive.
6.03.040 Alternative dispositions of criminal cases.
6.03.050 Collection of judgments.
6.03.060 Civil contempt.
6.03.070 Costs of prosecution and defense.
6.03.080 Age of capacity.
6.03.090 Statute of limitations.
6.03.100 Presumption of innocence.
6.03.110 Arrests – Citations – Warrants.
6.03.120 Classification of crimes – Penalties.

6.03.010 Short title.

This title shall be known and may be cited as the Marysville Penal Code. (Ord. 965 § 1.01, 1977).

6.03.020 Effective date.

The provisions of Chapters 6.03 through 6.60 MMC shall apply to any offense committed on or after December 5, 1977, which is defined in said chapters, unless otherwise expressly provided or unless the context otherwise requires, and shall also apply to any defense to prosecution for such offense. (Ord. 965 § 1.02, 1977).

6.03.030 Provisions not retroactive.

The provisions of Chapters 6.03 through 6.60 MMC do not apply to or govern the construction of and punishment for any offense committed prior to December 5, 1977, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if Chapters 6.03 through 6.60 MMC had not been enacted. (Ord. 965 § 1.03, 1977).

6.03.040 Alternative dispositions of criminal cases.

(1) Compromise and Dismissal. In all cases where a defendant is charged with a criminal act for which there is a civil remedy available to the victim, except in those cases involving offenses against public officers or violence of any nature, the court may, in its discretion, dismiss all criminal charges upon a finding that the victim has acknowledged in writing that he has received satisfaction for the injury or loss sustained, and upon payment by the defendant of all costs incurred by the city in the proceedings.

(2) Assessment of Punishment. If a defendant is found guilty, the court shall set the punishment therefor in the form of a judgment for costs as provided in MMC 6.03.070, and a fine or imprisonment, or both, as provided in MMC 6.03.120.

(3) Deferral of Sentence. After a conviction, the court may defer sentencing the defendant and place the defendant on probation and prescribe the conditions thereof. Such conditions may include making restitution to the victim of the crime and the payment of court costs and a fine in an amount equivalent to that which would have been assessed had the sentence not been deferred. In no case shall the time of deferral extend for more than two years from the date of conviction. During the time of deferral the court may, for good cause shown, permit a defendant to withdraw his plea of guilty, permit him to enter a plea of not guilty, and dismiss the charges against him. If the defendant fails to comply with any term or condition imposed by the court during the deferral, the defendant shall be required to appear before the court and the court may enter a conviction upon his record and impose sentence.

(4) Suspension of Sentence. For a period not to exceed two years after imposition of sentence, the court shall have continuing jurisdiction and authority to suspend the execution of all or any part of its sentence upon stated terms and conditions. Such conditions may include making restitution to the victim of the crime and payment of court costs and a fine. If the defendant fails to comply with any term or condition of probation, he shall be required to appear before the court for revocation of probation and for resentencing.

(5) Restitution in Lieu of Punishment. If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof, the court, in lieu of imposing a fine or imprisonment authorized by MMC 6.03.120, may order the defendant to pay an amount fixed by the court, not to exceed double the amount of the defendant's gain or the victim's loss from the commission of the crime. Such amount shall be used to provide restitution to the victim at the order of the court. In such case, the court shall make a finding as to the amount of the defendant's gain or the victim's loss from the crime; and if the record does not contain sufficient evidence to support such finding, the court may conduct a hearing upon the issue. For the purpose of this section, the terms "gain" or "loss"

refer to the amount of money or the value of property or services gained or lost. (Ord. 1777 §§ 1, 2, 1990; Ord. 1221 § 2, 1982).

6.03.050 Collection of judgments.

Upon conviction and entry of judgment for a fine and costs, execution may be issued against the property of a defendant and returned in the same manner as in civil actions. Upon order of the court, a convicted defendant who is in default on payment of any monetary sums required by the judgment may be imprisoned until all such monetary sums are either paid, credited for time served, or worked out at a community service project designated by the city. A defendant shall be given credit of $25.00 for each day of imprisonment and $5.00 per hour for work on a designated community service project. (Ord. 1777 § 3, 1990; Ord. 1221 § 3, 1982; Ord. 965 § 1.07, 1977).

6.03.060 Civil contempt.

A court may, in its discretion, treat any intentional failure to comply with a court order in respect to fines or costs or both, upon conviction, as civil contempt. (Ord. 965 § 1.08, 1977).

6.03.070 Costs of prosecution and defense.

Whenever anyone is convicted of an offense under this title, in addition to the fine imposed, he must pay the costs of prosecution. Costs of prosecution shall include any or all of the following: cost of docketing, cost of issuing a warrant, cost for mileage and processing the warrant, a fee for a personal recognizance bond, and costs for witness fees. Furthermore, in the court's discretion, a defendant may be required to reimburse the city for the cost of retaining assigned defense counsel. If in default on any of the above costs, a defendant shall be imprisoned until such fine and costs of prosecution and defense are paid, credited for time served, or worked out at a community service project designated by the city. A defendant shall be given credit of $25.00 for each day of imprisonment, and $5.00 per hour for work on a designated community service project. (Ord. 1777 § 4, 1990; Ord. 1221 § 4, 1982; Ord. 965 § 1.09, 1977).

6.03.080 Age of capacity.

Children under the age of eight years are incapable of committing crime. Children of eight years and under 12 years of age are presumed to be incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age. (Ord. 965 § 1.10, 1977).

6.03.090 Statute of limitations.

Prosecutions for criminal offenses defined in the Marysville Municipal Code, and for those state statutes incorporated herein by reference, may be commenced at any time within two years after their commission if they constitute gross misdemeanors, and at any time within one year after their commission if they constitute misdemeanors; provided, that the statutes of limitations prescribed herein shall not run during any time when the person charged is not usually and publicly resident within the state of Washington. (Ord. 1777 § 5, 1990; Ord. 965 § 1.11, 1977).

6.03.100 Presumption of innocence.

Every person charged with the commission of a crime is presumed innocent unless proved guilty. No person may be convicted of a crime unless each element of such crime is proved by competent evidence beyond a reasonable doubt. (Ord. 965 § 1.12, 1977).

6.03.110 Arrests – Citations – Warrants.

(1) A peace officer may arrest a person without a warrant if the officer has probable cause to believe that such person has:

(a) Committed a crime in the officer's presence; or

(b) Committed a crime not in the officer's presence if allowed by RCW 10.31.100, as now or hereafter amended.

(2) Whenever a person is arrested for a violation of the law, the arresting officer, or any other authorized peace officer, may serve upon the arrested person a citation and notice to appear, in lieu of continued custody, as provided by the Criminal Rules for Justice Court, as now or hereafter amended.

(3) Warrants shall issue and bail shall be set for persons who violate their promise to appear in court as provided by the Criminal Rules for Justice Court, as now or hereafter amended. The Criminal Rules for Justice Court shall apply to procedures relating to arrests, citations, warrants and other criminal proceedings. (Ord. 965 § 1.13, 1977).

6.03.120 Classification of crimes – Penalties.

All offenses defined by this title, or by any state statute which is incorporated herein by reference, constitute crimes and are classified as misdemeanors or gross misdemeanors as indicated by state law for the particular offense; provided, that where no express designation is made in state law or this code, such crimes shall be misdemeanors. Any party convicted of having committed a misdemeanor or gross misdemeanor shall be punished by a fine and/or imprisonment not to exceed the limits set forth for misdemeanors and gross misdemeanors in RCW 9A.02.021(2) and (3). (Ord. 1993 § 2, 1994; Ord. 1421 § 2, 1985; Ord. 965 § 1.05, 1977).

Chapter 6.06

ADOPTION OF STATE PROVISIONS

Sections:

6.06.010 Adoption of state statutes by reference.
6.06.020 Automatic amendments.
6.06.030 Statute incorporated by reference.

6.06.010 Adoption of state statutes by reference.

Statutes of the state of Washington specified in Chapters 6.03 through 6.30 MMC are adopted by reference as and for a portion of the Penal Code of the city of Marysville as if set forth in full, with the exception of the penalty provisions thereof which are superseded by the penalty provisions of said chapters, as set forth in MMC 6.03.120. (Ord. 965 § 1.14, 1977).

6.06.020 Automatic amendments.

The amendment or repeal by the Washington State Legislature of any of the statutes adopted in Chapters 6.03 through 6.60 MMC by reference shall be deemed to automatically amend said chapters in conformity therewith, and it shall not be necessary for the legislative authority of the city to take any action with respect to such amendments or repealers. (Ord. 965 § 1.15, 1977).

6.06.030 Statute incorporated by reference.

The following statute is incorporated in this chapter by reference:

RCW
9A.04.110 Definitions.
(Ord. 965 § 1.16, 1977).

Chapter 6.09

LIABILITY, DEFENSES AND ANTICIPATORY OFFENSES

Sections:
6.09.010 Principles of liability.
6.09.020 Defenses – Generally.
6.09.030 Defenses – Insanity.
6.09.040 Anticipatory offenses.

6.09.010 Principles of liability.

The following statutes regarding principles of liability are incorporated by reference:

RCW
9A.08.010 General requirements of culpability.
9A.08.020 Liability for conduct of another – Complicity.
9A.08.030 Criminal liability of corporations and persons acting or under a duty to act in their behalf.

(Ord. 965 § 2.01, 1977).

6.09.020 Defenses – Generally.

The following statutes regarding defenses are incorporated by reference:

RCW
9A.16.010 Definitions.
9A.16.020 Use of force – When lawful.
9A.16.060 Duress.
9A.16.070 Entrapment.
9A.16.080 Action for being detained on mercantile establishment premises for investigation – "Reasonable grounds" as defense.
9A.16.090 Intoxication.

(Ord. 965 § 4.01, 1977).

6.09.030 Defenses – Insanity.

The following statute regarding a defense of insanity is incorporated by reference:

RCW
9A.12.010 Defense of insanity.

(Ord. 965 § 3.01, 1977).

6.09.040 Anticipatory offenses.

The following statutes regarding anticipatory offenses are incorporated by reference:

RCW
9A.28.020 Criminal attempt.
9A.28.030 Criminal solicitation.
9A.28.040 Criminal conspiracy.

(Ord. 965 § 5.01, 1977).

Chapter 6.12

INTERFERENCE WITH OFFICIAL PROCEEDINGS

Sections:
6.12.010 Statutes incorporated by reference.
6.12.020 Criminal contempt.
6.12.030 Penalties.

6.12.010 Statutes incorporated by reference.

The following statutes regarding interference with official proceedings are incorporated by reference:

RCW
9A.72.015 Interference, obstruction of any court, building or residence.
9A.72.140 Jury tampering.
9A.72.150 Tampering with physical evidence.

(Ord. 1993 § 15, 1994; Ord. 1336, 1984; Ord. 965 § 11.01, 1977).

6.12.020 Criminal contempt.

A person shall be guilty of criminal contempt by willfully committing one or more of the following acts:

(1) Disorderly, contemptuous or insolent behavior committed during the sitting of the Marysville municipal court or the Marysville city council, in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;

(2) Breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of the Marysville municipal court or the Marysville city council; or

(3) Unlawful refusal to be sworn as a witness before the Marysville municipal court or before the city council; or, after being sworn, unlawful refusal to answer any question legally posed. (Ord. 965 § 11.02, 1977).

6.12.030 Penalties.

Criminal contempt is a gross misdemeanor. (Ord. 1993 § 3, 1994).

Chapter 6.15

OBSTRUCTING GOVERNMENTAL OPERATION

Sections:
6.15.010 Statutes incorporated by reference.
6.15.030 Possessing contraband.

6.15.010 Statutes incorporated by reference.

The following statutes regarding obstructing governmental operation are incorporated by reference:

RCW
9.69.100 Withholding knowledge of felony involving violence.
9A.76.010 Definitions.
9A.76.020 Obstructing of a law enforcement officer.
9A.76.030 Refusing to summon aid for a peace officer.
9A.76.040 Resisting an arrest.
9A.76.050 Rendering criminal assistance – Definitions.
9A.76.060 Relative defined.
9A.76.080 Rendering criminal assistance in the second degree.
9A.76.090 Rendering criminal assistance in the third degree.
9A.76.100 Compounding.
9A.76.130 Escape in the third degree.
9A.76.160 Introducing contraband in the third degree.
9A.76.170 Bail jumping.
9A.76.175 Making a false or misleading statement to a public servant.

(Ord. 2088 § 2, 1996; Ord. 1993 § 13, 1994; Ord. 1737 § 1, 1989; Ord. 1725, 1989; Ord. 1337, 1984; Ord. 1229 § 1, 1982; Ord. 965 § 12.01, 1977).

6.15.030 Possessing contraband.

Every person possessing contraband, as defined in RCW 9A.76.010(3), while said person is confined in the city jail or in the custody of jail officers, shall be guilty of a misdemeanor. (Ord. 1693, 1989).

Chapter 6.18

ABUSE OF OFFICE

Sections:
6.18.010 Statute incorporated by reference.

6.18.010 Statute incorporated by reference.

The following statute regarding abuse of office is incorporated by reference:

RCW
9A.80.010
(1) Official misconduct.

(Ord. 965 § 13.01, 1977).

Chapter 6.21

ASSAULT AND OTHER CRIMES INVOLVING PHYSICAL HARM

Sections:
6.21.010 Statutes incorporated by reference.

6.21.010 Statutes incorporated by reference.

The following statutes regarding assault and other crimes involving physical harm are hereby incorporated by reference:
RCW
9A.36.041 Assault in the fourth degree.
9A.36.050 Reckless endangerment.
9A.36.070 Coercion.
(Ord. 1643 § 2, 1988).

Chapter 6.22

REGISTRATION OF SEX OFFENDERS

Sections:
6.22.010 Registration of sex offenders.

6.22.010 Registration of sex offenders.

A person who knowingly fails to register as required by RCW 9A.44.130, as now or hereafter amended, is guilty of a gross misdemeanor. If the crime for which the individual was convicted was other than a Class A felony under the laws of this state, or a federal or out-of-state conviction for an offense that under the laws of this state would be a Class A felony. (Ord. 1993 § 1, 1994).

Chapter 6.24

PUBLIC NUISANCES[1]

Sections:

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

6.24.010 Purpose and intent.

The purpose of this chapter is to create a system to maintain and protect the health, safety and welfare of the citizens of the city of Marysville and to establish the means by which compliance shall be accomplished. (Ord. 2046 § 1, 1995).

6.24.020 Definitions.

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

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

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

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

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

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

(6) "Public nuisance" is a nuisance that affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal. (Ord. 2046 § 1, 1995).

6.24.030 Statutes incorporated by reference.

The following statutes regarding public nuisances are incorporated by reference:

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

(Ord. 2046 § 1, 1995).

6.24.040 Penalties and enforcement.

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

(1) It is unlawful for any responsible person or owner to permit, maintain, suffer, carry on or allow a public nuisance to exist, as defined by this chapter, upon his/her premises any act or thing declared a nuisance by this chapter.

(2) A violation of this chapter shall be a misdemeanor and shall be punishable by a penalty not to exceed $1,000, in addition to any civil remedies for abatement and collection for the expense thereof.

(3) If the same responsible person is found to be in violation of this chapter within three years of his/her first violation, such violation and any other subsequent violation shall carry a penalty of not more than $1,000 in which $150.00 shall be the minimum, or 90 days in jail, or both.

(4) Each day the violation is in existence may be considered a separate violation. (Ord. 2046 § 1, 1995).

6.24.050 Types of nuisances.

It shall be a "public nuisance" within the city of Marysville if any responsible person or persons shall maintain or allow to be maintained on real property which he or she may have charge, control or occupy, except as may be permitted by any other city ordinance, whether visible or not from any

1. Prior legislation: Ords. 965 and 1334.

public street, alley or residence, any of the following conditions:

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

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

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

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

(5) No person shall attach to utility poles any of the following: advertising signs, posters, vending machines, or any similar object which presents a hazard to, or endangers the lives of, electrical workers. Any attachment to utility poles shall only be made with the permission of the utility company involved, and shall be placed not less than 12 feet above the surface of the ground. Such violations constitute a public nuisance.

(6) Any and all junk, trash, litter, garbage, boxes, bottles, cans, discarded lumber, salvaged materials, or other similar materials in any front yard, side yard, rear yard or vacant lot, except for such materials being used for an immediate construction project on said premises.

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

(8) Broken or discarded furniture, furnishings, appliances, household equipment and other similar items, in any front yard, side yard, rear yard or vacant lot.

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

(10) Graffiti on the exterior of any building, fence, or other structure in any front yard, side yard, rear yard or vacant lot.

(11) Nonoperational or abandoned vehicles or parts thereof, or other articles of personal property which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot. The responsible person may have on his or her premises, at any one time, only one nonoperational or abandoned vehicle outside an enclosed building for a period not to exceed 14 days.

(12) Vegetation exceeding 12 inches in height (exclusive of plants and flowers within a flower bed, shrubbery and trees) located in any front yard, side yard, rear yard or vacant lot.

(13) Utility trailers, unmounted camper or recreation vehicles shall not be located in the front yard. They may be located in the driveway, parallel to the driveway, or behind the front building line of the property on either side of the building on a maintained surface. (Ord. 2046 § 1, 1995).

6.24.060 Forced abatement.

If, within 10 days after receiving a written notice and order in accordance with MMC Title 4, any person owning, occupying or controlling such premises who fails, neglects or refuses to correct said nuisance shall be found to be in violation of this chapter. The director may order said nuisance to be removed or abated per MMC Title 4 and all indebtedness to the city for removal shall be paid by the violator(s). Such cost and charges to be recovered by a civil action brought by the city against the violator pursuant to MMC Title 4. (Ord. 2046 § 1, 1995).

Chapter 6.25

GRAFFITI NUISANCE

Sections:

6.25.010 Graffiti deemed nuisance.
6.25.020 Definitions.
6.25.030 Continued presence of graffiti an infraction.
6.25.040 Graffiti – Notice of removal.
6.25.050 Appeal.
6.25.060 Removal by city.
6.25.070 City cost recoverable – Debt – Lien.
6.25.080 Severability.

6.25.010 Graffiti deemed nuisance.

Graffiti and other defacement of public and private property, including walls, rocks, bridges, fences, gates and other structures, trees, and other real and personal property within the city, constitutes a nuisance.

Although it is appropriate, where possible, to request that the courts require people who are convicted of acts of malicious mischief and vandalism involving the application of graffiti to public or private property to restore the property so defaced, damaged or destroyed, oftentimes it is difficult to identify, or to identify and convict, the wrongdoer.

The continued presence of graffiti is a blight on the community. While voluntary graffiti removal should be encouraged, where graffiti has not been promptly removed, graffiti should be removed in accordance with the provisions of this chapter. (Ord. 2295 § 1, 1999).

6.25.020 Definitions.

For the purposes of this chapter, the following words shall have the following meanings:

(1) "Abate" means the removal, painting over, or other obscuring of graffiti from view as directed by the notice provided for in MMC 6.25.040.

(2) "Graffiti" means the defacing, damaging or destroying by spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, facilities, natural features, and places.

(3) "Graffiti nuisance property" means property upon which graffiti exists and where, after notice as provided by this chapter, the graffiti has not been abated by the deadline set in a notice as established by this chapter.

(4) "Owner" means any entity or entities having a legal or equitable interest in real or personal property including but not limited to the interest of a tenant or lessee.

(5) "Responsible party" means an owner, and also an entity or person acting as an agent for an owner, or an entity or a person who has dominion and control over a property. There may be more than one responsible party for a particular property. (Ord. 2295 § 1, 1999).

6.25.030 Continued presence of graffiti an infraction.

It shall be a civil infraction for a responsible party to allow a graffiti nuisance property to exist. Each day a graffiti nuisance property shall exist shall be a separate infraction. A civil infraction under this chapter shall be punishable by a penalty of $25.00 for each violation. (Ord. 2295 § 1, 1999).

6.25.040 Graffiti – Notice of removal.

(1) Whenever the mayor, or his/her designated representative, determines that graffiti exists and the same is visible to any person of normal eyesight utilizing any public road, parkway, alley, sidewalk, or other facility open to the general public, a notice shall be issued to the responsible person to abate the nuisance by a stated deadline, which shall be no more than 30 days after the date of the notice unless weather or seasonal conditions require a longer deadline.

(2) The giving of notice as required by this section shall be accomplished by providing the notice to the responsible party in any one of the following ways:

(a) By personal service on the responsible party;

(b) By registered or certified mail, postage prepaid, properly addressed and mailed to the last known address of the responsible party and to the address of the party.

(3) The notice shall be as established by the chief of police. The notice shall include a list of community resources and references where the property owner may seek assistance in the eradication of graffiti. (Ord. 2295 § 1, 1999).

6.25.050 Appeal.

The hearing examiner for the city of Marysville hereby is given jurisdiction to hear appeals of a "Notice of Graffiti, of Graffiti Nuisance Property and Removal."

An appeal shall be commenced by filing a notice of appeal with the city clerk within 10 days after the service of the "Notice of Graffiti, of Graffiti Nuisance Property and Removal" on the party or parties to whom the notice is directed. If no appeal is filed within said 10 days, the "Notice of Graffiti,

of Graffiti Nuisance Property and Removal" shall become final and conclusive, and not subject to appeal or review in any forum.

In any appeal, the city shall have the burden to prove by a preponderance of the evidence that the property contains graffiti, the named party is a responsible party, the deadline for abatement is reasonable and should not be adjusted for weather or seasonal conditions, and the manner of abatement is reasonable.

If the hearing examiner finds that the property contains graffiti and that the named party is a responsible party, but that either the manner of abatement is not reasonable, or the deadline should be extended for seasonal or weather conditions, then the hearing examiner shall modify the manner of abatement to make the same reasonable or extend the deadline a reasonable period to account for seasonal or weather conditions, as the case may be.

The hearing examiner shall issue a written decision containing the following information: (1) findings of fact (which shall include the common address and legal description for the property) and conclusions of law; (2) the manner of any required abatement action and the deadline by which abatement must be completed; (3) a description of the civil penalty for an infraction which may accrue if the responsible party fails to abate the graffiti by the deadline established in the decision and order; (4) a statement that the decision of the hearing examiner becomes final 21 days after the date of the decision unless the decision of the hearing examiner is appealed to the Snohomish County Superior Court; and (5) a statement that if the graffiti is not abated by the deadline established in the decision and order that the city or its contractor may abate the graffiti and the cost of abatement will be a personal obligation of the responsible party and a lien against the graffiti nuisance property.

(1) The hearing examiner shall mail his/her decision to the named party by regular and certified mail, and a copy of the decision also shall be posted on the property in a conspicuous location.

(2) Any review of the decision of the hearing examiner must be by land use petition filed within 21 days of issuance of the decision and order in the Snohomish County Superior Court in accordance with the Land Use Petition Act. (Ord. 2295 § 1, 1999).

6.25.060 Removal by city.

When the deadline established under this chapter has passed, and the property is deemed graffiti nuisance property, the city may abate the graffiti nuisance property. Either city resources or contractors may be used in abating the graffiti nuisance property.

Using any lawful means, the city and its representatives may enter upon the graffiti nuisance property and abate the graffiti. The city may seek such judicial process or writ as is deemed necessary to carry out the abatement. (Ord. 2295 § 1, 1999).

6.25.070 City cost recoverable – Debt – Lien.

If the city is required to remove graffiti and abate a graffiti nuisance property, the city shall bill the cost of removal and abatement to the responsible party. The costs billed shall be due and payable to the city within 10 calendar days of billing. The costs billed shall include the value of the use of city staff and resources (which is hereby established as $22.50 per hour) and all payments made to third parties.

If the costs billed are not paid when due, they shall be a personal debt of the responsible party and automatically the costs shall be a lien upon the graffiti nuisance property. The city may take all lawful action to collect the debt of the responsible party or to foreclose its lien upon the graffiti nuisance property. (Ord. 2295 § 1, 1999).

6.25.080 Severability.

The provisions of this chapter are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection or portion of this chapter, or the application thereof to any person or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances. (Ord. 2295 § 1, 1999).

Chapter 6.27

CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA

Sections:

6.27.010 Statutes incorporated by reference.

6.27.010 Statutes incorporated by reference.

The following statutes regarding controlled substances and drug paraphernalia are incorporated by reference:

RCW

69.41.010 Definitions of legend drugs.
69.41.030 Possession of a legend drug unlawful.
69.41.060 Search and seizure.
69.50.101 Definitions.
69.50.102 Definitions.
69.50.201 Authority to control.
69.50.202 Nomenclature.
69.50.204 Marijuana defined as a controlled substance.
69.50.401
(e) Possession of 40 grams or less of marijuana prohibited.
69.50.412 Prohibited acts and penalties regarding drug paraphernalia.
69.50.425 Minimum imprisonment.
69.50.505 Forfeiture of controlled substances and drug paraphernalia, and equipment and vehicles associated therewith.
9.47A.010 Definition.
9.47A.020 Unlawful inhalation – Exception.
9.47A.030 Possession of certain substances prohibited, when.
9.47A.040 Sale of certain substances prohibited, when.
9.47A.050 Penalty.

(Ord. 2112 § 1, 1997; Ord. 1993 § 4, 1994; Ord. 1382, 1984; Ord. 965 § 20.01, 1977).

Chapter 6.30

PUBLIC INDECENCY – PROSTITUTION – SEX CRIMES

Sections:

6.30.010 Statutes incorporated by reference.
6.30.020 Definitions.
6.30.030 Unlawful public exposure prohibited.
6.30.040 Facilitating unlawful public exposure prohibited.
6.30.050 Exemptions.
6.30.060 Public display of sexually explicit material.
6.30.070 Location of performers providing certain forms of entertainment restricted.
6.30.080 Affirmative defenses.

6.30.010 Statutes incorporated by reference.

The following statutes relating to public indecency, prostitution, sexual exploitation of children, and other sex crimes are incorporated by reference:

RCW

9A.44.010 Definitions for sexual offenses.
9A.44.096 Sexual misconduct with a minor in the second degree.
9A.44.120 Admissibility of child's statement.
9A.88.010 Indecent exposure.
9A.88.030 Prostitution.
9A.88.050 Prostitution – Sex of parties immaterial – No defense.
9A.88.090 Permitting prostitution.
9A.88.110 Patronizing a prostitute.
9.68A.011 Definitions.
9.68A.080 Processing depictions of minors engaged in sexually explicit conduct.
9.68A.090 Communication with minor for immoral purposes.

(Ord. 1642, 1988; Ord. 1399, 1984; Ord. 1309, 1983; Ord. 965 § 16.01, 1977).

6.30.020 Definitions.

As used in this chapter, the following words and terms shall have the meaning set forth in this section:

(1) "Expressive dance" means any dance which, when considered in the context of the entire performance, constitutes an expression of theme, story, or ideas, but excluding any dance such as, but not limited to, common barroom-type topless dancing which, when considered in the context of the entire performance, is presented primarily as a means of displaying nudity as a sales device or for

other commercial exploitation without substantial expression of theme, story or ideas.

(2) "Exposed" means the state of being revealed, exhibited or otherwise rendered open to public view.

(3) "Public exposure" means the act of revealing, exhibiting or otherwise rendering open to public view.

(4) "Public place" means an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment in the doorways and entrances to buildings or dwellings in the grounds enclosing them.

(5) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

(6) "Sexual intercourse":

(a) Has its ordinary meaning and occurs upon any penetration, however slight; and

(b) Also means any penetration of the vagina or anus, however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are of the same or opposite sex.

(7) "Sexually explicit material" means any pictorial or three-dimensional material depicting sexual intercourse, masturbation, sodomy, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or emphasizing the depiction of adult human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition. In determining whether material is prohibited for public display by this section, such material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of this subsection.

(8) "Unlawful public exposure" means:

(a) A public exposure of any portion of the human anus or genitals;

(b) A public exposure of any portion of the female breast lower than the upper edge of the areola; or

(c) A public exposure consisting of touching, caressing or fondling of the male or female genitals or female breasts, whether clothed or unclothed.

(9) The word "he" includes masculine, feminine and neuter; therefore references to "he" shall also be meant to refer to "she." (Ord. 2070 § 7, 1996; Ord. 1281 § 2, 1983).

6.30.030 Unlawful public exposure prohibited.

It is unlawful for any person to intentionally commit any act constituting unlawful public exposure as defined in this chapter. (Ord. 1281 § 2, 1983).

6.30.040 Facilitating unlawful public exposure prohibited.

It is unlawful for the owner, lessee, manager, operator or other person in charge of any public place to knowingly permit, encourage or cause to be committed, whether by commission or omission, any unlawful public exposure upon said premises. (Ord. 1281 § 2, 1983).

6.30.050 Exemptions.

The prohibitions set forth in MMC 6.30.030 and 6.30.040 shall not apply to any:

(1) "Expressive dance," as defined in MMC 6.30.020;

(2) Play, opera, musical, or other dramatic work;

(3) Class, seminar, or lecture, conducted for a scientific, medical or educational purpose;

(4) Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities. (Ord. 1281 § 2, 1983).

6.30.060 Public display of sexually explicit material.

(1) A person is guilty of displaying sexually explicit material if he knowingly places such material upon public display, or if he knowingly fails to take prompt action to remove such a display from property in his possession after learning of its existence.

(2) Material is placed upon "public display" if it is placed on or in a billboard, viewing screen, theater marquee, newsstand, display rack, window, showcase, display case or similar place so that sexually explicit material is easily visible from a public thoroughfare or from the property of others. (Ord. 1281 § 2, 1983).

6.30.070 Location of performers providing certain forms of entertainment restricted.

No entertainer shall appear in any public place while unclothed or with any portion of the buttocks, genitals, pubic region or female breasts exposed, if allowed to so perform under the exemptions of MMC 6.30.050, except upon a stage or other surface raised at least 18 inches above the level of the floor upon which the closest patrons are seated or standing, nor closer than six feet from the nearest patron. (Ord. 1281 § 2, 1983).

6.30.080 Affirmative defenses.

It is an affirmative defense to a prosecution for violation of MMC 6.30.030 or 6.30.040 that the nudity or other public exposure, when considered in the context in which presented, provided actual literary, artistic, political or scientific value and was not provided for commercial or sexual exploitation or with an emphasis on an appeal to a prurient interest. (Ord. 1281 § 2, 1983).

Chapter 6.33

OBSCENITY AND PORNOGRAPHY

Sections:

6.33.010 Statutes incorporated by reference.

6.33.010 Statutes incorporated by reference.

The following statutes regarding obscenity and pornography are incorporated by reference:

RCW

9.68.015 Obscene literature, shows, etc. – Exemptions.
9.68.030 Indecent articles, etc.
9.68.050 Erotic material – Definitions.
9.68.060 Sale, distribution or exhibition of erotic material.
9.68.070 Affirmative defenses.
9.68.080 Unlawful acts relating to minors.
9.68.100 Exceptions for libraries.
9.68.110 Exceptions for motion picture projectionists.
9.68.130 Display of sexually explicit material.

(Ord. 1673 §§ 1, 2, 1989; Ord. 965 § 17.01, 1977).

Chapter 6.36

LOITERING

Sections:

6.36.010 Loitering on or about school premises.
6.36.020 Loitering for the purpose of engaging in drug related activity.
6.36.030 Penalty.

6.36.010 Loitering on or about school premises.

It is unlawful for any person to loiter about the building or buildings of any public or private school or institution of higher learning, or the public premises adjacent thereto, without lawful purpose, except a person enrolled as a student in such institution, or the parents or guardians of such student, or persons employed by such institution. (Ord. 1685 § 2, 1989).

6.36.020 Loitering for the purpose of engaging in drug related activity.

(1) It is unlawful for any person to loiter in or near any thoroughfare, place open to the public, or near any public or private place in a manner and under circumstances manifesting a purpose to engage in drug-related activity contrary to any of the provisions of Chapters 69.41, 69.50 or 69.52 RCW.

(2) The following circumstances are examples of what may be considered in determining whether the purposes referred to in subparagraph (a) of this section are manifested:

(a) Such person is a known unlawful drug user, possessor or seller. For purposes of this section a "known unlawful drug user, possessor or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in Chapters 6.41, 6.50 or 6.52 RCW, or such person has been convicted of any violation of any of the provisions of said chapters of the Revised Code of Washington or substantially similar laws of any political subdivision of this state or any other state; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or a person who possesses drug paraphernalia as defined in Chapter 6.28 MMC; or

(b) Such person is currently subject to an order prohibiting his/her presence in a high drug activity geographic area; or

(c) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in unlawful drug-related activity, including by way of example only, such person acting as a "lookout"; or

(d) Such person is physically identified by the officer as a member of a "gang," or association which has as its purpose illegal drug activity; or

(e) Such person transfers small objects or packages for currency in a furtive fashion; or

(f) Such person takes flight upon the appearance of a police officer; or

(g) Such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity; or

(h) The area involved is by public repute known to be an area of unlawful drug use and trafficking; or

(i) The premises involved are known to have been reported to law enforcement as a place suspected of drug activity pursuant to Chapter 69.52 RCW; or

(j) Any vehicle involved is registered to a known unlawful drug user, possessor or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity. (Ord. 1993 § 7, 1994; Ord. 1685 § 2, 1989).

6.36.030 Penalty.

Any person violating a provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $500.00 or by imprisonment in jail for not more than six months or by both such fine and imprisonment. (Ord. 1685 § 2, 1989).

Chapter 6.37

PEDESTRIAN INTERFERENCE

Sections:

6.37.010 Pedestrian interference.
6.37.020 Penalty.

6.37.010 Pedestrian interference.

(1) The following definitions apply in this chapter:

(a) "Aggressively beg" means to beg with the intent to intimidate another person into giving money or goods.

(b) "Intimidate" means to engage in conduct which would make a reasonable person fearful or feel compelled.

(c) "Beg" means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.

(d) "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit issued pursuant to Chapters 12.08 or 12.28 MMC, shall not constitute obstruction of pedestrian or vehicular traffic.

(e) "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(2) A person is guilty of pedestrian interference if, in a public place, he or she intentionally:

(a) Obstructs pedestrian or vehicular traffic; or

(b) Aggressively begs. (Ord. 2156 § 1, 1997).

6.37.020 Penalty.

Pedestrian interference is a misdemeanor. Any person violating this chapter shall be punished by a fine not to exceed $500.00 or by imprisonment and jail for not more than six months or by both such fine and imprisonment. (Ord. 2156 § 1, 1997).

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Chapter 6.39

BIRD SANCTUARY

Sections:

6.39.010 Area designated.
6.39.020 Molesting birds unlawful.
6.39.030 Penalty for violation.

6.39.010 Area designated.

The entire area embraced in Jennings Park, as now or hereafter constituted, and the entire area of city-owned property surrounding and including the Marysville sewer lagoon, as now or hereafter constituted, is designated as a bird sanctuary. (Ord. 965 § 22.01, 1977).

6.39.020 Molesting birds unlawful.

It is unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl, or to rob bird nests or wild fowl nests within the designated bird sanctuary of the city of Marysville; provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the chief of police, then the foregoing prohibition may be temporarily stayed, and the chief may designate the manner, time and place for bird-control measures to be taken. (Ord. 965 § 22.02, 1977).

6.39.030 Penalty for violation.

Any person violating a provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment in jail for not more than 90 days, or by both such fine and imprisonment. (Ord. 1993 § 8, 1994; Ord. 965 § 22.03, 1977).

Chapter 6.42

THEFT

Sections:

6.42.010 Statutes incorporated by reference.

6.42.010 Statutes incorporated by reference.

The following statutes regarding theft are incorporated by reference:

RCW	
9A.56.010	Definitions.
9A.56.020	Theft – Definition, defense.
9A.56.050	
(1)	Theft in the third degree.
9A.56.060	
(1), (3)	Unlawful issuance of checks or drafts.
9A.56.170	Possessing stolen property in the third degree.
9A.56.180	Obscuring identity of a machine.
9A.56.220	Theft of cable television services.
9A.56.230	Unlawful sale of cable television services.
9A.56.240	Forfeiture and disposal of device used to commit violation.
9A.56.260	Connection of cable converter.
9A.56.270	Shopping cart theft.

(Ord. 1451, 1986; Ord 965 § 9.01, 1977).

Chapter 6.45

FRAUD

Sections:

6.45.010 Statutes incorporated by reference.

6.45.010 Statutes incorporated by reference.

The following statutes regarding fraud are incorporated by reference:

RCW

9A.60.010 Definitions.
9A.60.040
(1) Criminal impersonation.
9A.60.050
(1) False certification.
9.04.010 False advertising.
9.45.060 Selling or removing encumbered, leased or rented property.
9.45.062 Failure to deliver leased property.
9.45.070 Mock auctions.
9.45.080 Fraudulent removal of property.
9.45.090 Knowingly receiving fraudulent conveyance.
9.45.100 Fraud in assignment for benefit of creditors.
9.45.120 Using false weights and measures.
9.45.150 Concealing foreign matter in merchandise.
9.45.180 Fraud in operating coin-box telephone or other receptacle.
9.45.190 Manufacture or sale of slugs to be used for coins.
9.45.240(1) Fraud in obtaining telephone or telegraph service.
9.45.250 Fraud in obtaining cable television services.
9.12.010 Barratry.
48.30.270 Insurance fraud.

(Ord. 1676 § 1, 1989; Ord. 1416, 1985; Ord. 1354, 1984; Ord. 1286, 1983; Ord. 965 § 10.01, 1977).

Chapter 6.48

BURGLARY AND TRESPASS

Sections:

6.48.010 Statutes incorporated by reference.
6.48.020 Trespassing.

6.48.010 Statutes incorporated by reference.

The following statutes regarding burglary and trespass are incorporated by reference:

RCW

9A.52.010 Definitions.
9A.52.060 Making or having burglar tools.
9A.52.070 Criminal trespass in the first degree.
9A.52.080 Criminal trespass in the second degree.
9A.52.090 Criminal trespass – Defenses.
9A.52.100 Vehicle prowling.
9A.52.120 Computer trespass.

(Ord. 1993 § 11, 1994; Ord. 1959 § 2, 1993; Ord. 965 § 8.01, 1977).

6.48.020 Trespassing.

(1) Definitions. As used in this section:

(a) "Enter," when constituting an element or part of a crime, means and shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used, or intended to be used to threaten or intimidate a person or to detach or remove property.

(b) "Enters or remains unlawfully."

(i) A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

(ii) A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designated to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

(c) "Premises" includes any building, dwelling, or any real property.

(2) Unlawful Acts Designated. A person is guilty of the crime of trespass if he knowingly enters or remains unlawfully in or upon the premises of another.

(3) Defenses to Prosecution for Violations. In any prosecution under this section it is a defense that:

(a) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

(b) The actor reasonably believed that the owner of the premises, or other persons empowered to license access thereto, would have licensed him to enter or remain; or

(c) The actor was attempting to serve legal process which includes any document required or allowed to be served upon persons or property, by any statute, rule, ordinance, regulation, or court order, excluding delivery by the mails of the United States. This defense applies only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.

(4) Penalty. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment in jail for not more than 90 days, or by both such fine and imprisonment. (Ord. 1959 § 1, 1993).

Chapter 6.50

HARASSMENT

Sections:

6.50.010 Statutes incorporated by reference.

6.50.010 Statutes incorporated by reference.

The following statutes regarding harassment are incorporated by reference:

RCW

9A.46.010 Legislative finding.
9A.46.020 Definition – Penalties.
9A.46.030 Place where committed.
9A.46.040 Court ordered requirements upon person charged with crime – Violation.
9A.46.050 Arraignment – No-contact order.
9A.46.060 Crimes included in harassment.
9A.46.070 Enforcement of orders restricting contact.
9A.46.080 Order restricting contact – Violation.
9A.46.090 Liability of peace officer.
9A.46.100 Convicted – Time when.
9A.46.110 Stalking.
10.14.020 Definitions.
10.14.120 Disobedience of order – Penalties.
10.14.170 Criminal penalty.

(Ord. 1993 § 12, 1994; Ord. 1615 § 1, 1988; Ord. 1450, 1986).

Chapter 6.51

ARSON, RECKLESS BURNING AND MALICIOUS MISCHIEF

Sections:

6.51.010 Statutes incorporated by reference.

6.51.010 Statutes incorporated by reference.

The following statutes regarding arson, reckless burning and malicious mischief are incorporated by reference:

RCW

9A.48.010 Definitions.
9A.48.050 Reckless burning.
9A.48.060 Reckless burning – Defense.
9A.48.090 Malicious mischief.
9A.48.100 Malicious mischief – "Physical damage" defined.
9.61.230 Telephone calls to harass, intimidate, torment or embarrass.
9.61.240 Permitting telephone to be used.
9.61.250 Where telephone offense is deemed to have been committed.

(Ord. 1335, 1984; Ord. 965 § 7.01, 1977).

Chapter 6.54

PUBLIC DISTURBANCES

Sections:

6.54.010 Statutes incorporated by reference.
6.54.020 Disorderly conduct.

6.54.010 Statutes incorporated by reference.

The following statutes regarding public disturbance are incorporated by reference:

RCW

9A.84.010
(1) Riot.
9A.84.020 Failure to disperse.
9A.84.040
(1) False reporting.

(Ord. 965 § 14.01, 1977).

6.54.020 Disorderly conduct.

A person is guilty of disorderly conduct if he:

(1) Uses abusive, vulgar, profane, obscene or indecent language, or conducts himself in an indecent manner, when such language or conduct intentionally creates a risk of assault or a civil disturbance;

(2) Willfully annoys, bothers, molests, insults or offers an affront or indignity to any person;

(3) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;

(4) Intentionally obstructs vehicular or pedestrian traffic without lawful authority;

(5) Fights or quarrels in a public place;

(6) Goes upon premises occupied by any person other than himself and looks through any window or windows from the outside of any building on the premises after dusk and before daylight without permission of the tenant or occupant, and without lawful authority to do so; provided, that the proscriptions of this subsection shall not apply to commercial property with displays which are designed and intended for public viewing;

(7) Suffers or permits in any building or place owned by him or under his control any riotous or disorderly conduct, drunkenness or fighting to the annoyance of the public;

(8) Hitches or ties any animal or thing to, or obstructs, injures, connects with or opens, any fire hydrant in the city, without a permit from the chief of the fire department or other municipal officer;

(9) Drives or rides a horse or horses or other livestock in the city in such a manner as to endanger or to be likely to endanger any person or property, or drives or rides a horse or horses or other

livestock upon any sidewalk in the city, except across a crosswalk on a street;

(10) Removes, destroys, tears down or defaces, either in whole or in part, or marks or writes upon, changes, obliterates or mars, or in any manner alters or changes the writing, printing or signature, or any part of the writing, printing or signature, upon any bulletin, legal notice or advertisement, poster or paper writing of the city lawfully posted or placed in the city, unless such person is an officer or employee of the city and is duly authorized to perform such acts;

(11) Performs any acts not specifically described in this section which tend to or do stir up public peace, provoke disorder, or endanger the safety of others. (Ord. 1669 § 2, 1989; Ord. 1569, 1987; Ord. 1240, 1982; Ord. 978, 1978; Ord. 965 § 14.02, 1977).

Chapter 6.56

DOMESTIC VIOLENCE

Sections:

6.56.010 Statutes incorporated by reference.
6.56.020 Statutes incorporated by reference.

6.56.010 Statutes incorporated by reference.

The following statutes regarding domestic violence are incorporated by reference:

RCW	
10.99.040	
(4)	Violation of a pretrial no-contact order in a criminal domestic violence case.
10.99.050	Violation of a no-contact order which is part of a sentence in a criminal domestic violence case.
26.09.300	Violation of a restraining order issued in a dissolution proceeding.
26.50.110	Violation of a protective order issued in a civil domestic violence proceeding.
Chapter 248, Sec. 3, Laws of 1996	Interfering with the reporting of domestic violence.

(Ord. 2088 § 1, 1996; Ord. 1449, 1986; Ord. 1393, 1984).

6.56.020 Statutes incorporated by reference.

The following statutes regarding custodial interference in the second degree are incorporated by reference:

RCW	
9A.40.010	Definitions.
9A.40.070	Custodial interference in the second degree.
9A.40.080	Assessment of costs; defenses; consent by child.

(Ord. 1737 § 2, 1989).

Chapter 6.57

OFFENSES BY AND AGAINST MINORS

Sections:

6.57.010 Statutes incorporated by reference.
6.57.020 Minor misrepresenting age.
6.57.030 Admission to entertainment clubs.
6.57.040 Leaving children under age seven in a parked vehicle.
6.57.050 Leaving children unattended in standing vehicle with motor running.

6.57.010 Statutes incorporated by reference.

The following statutes relating to minors are incorporated by reference:

RCW

9.68A.150 Allowing a minor on premises of live erotic performance.

26.28.080 Allowing minors to enter and remain in certain adult establishments, selling a minor tobacco products, and selling a minor firearms.

70.155.080 Purchasing or obtaining tobacco by persons under the age of 18 – Civil infraction.

(Ord. 2194 § 1, 1998; Ord. 1937 § 2, 1993; Ord. 1672, 1989; Ord. 1664 § 2, 1989).

6.57.020 Minor misrepresenting age.

It is unlawful for any minor to misrepresent his or her age for the purpose of aiding, abetting or benefiting from any of the acts prohibited in RCW 26.28.080 or MMC 5.20.050. (Ord. 1664 § 2, 1989).

6.57.030 Admission to entertainment clubs.

It is unlawful to permit any person to enter or remain on premises of an entertainment club who does not meet the age restrictions provided in MMC 5.20.050. (Ord. 1664 § 2, 1989).

6.57.040 Leaving children under age seven in a parked vehicle.

(1) No person, while in charge of a motor vehicle, shall park or willfully allow such vehicle to stand upon a highway, road or street, or any place open to the public leaving a child under the age of seven unattended therein, except when another responsible person of at least 12 years of age has immediate control over such child and is physically present in the vehicle.

(2) Penalty for Violation of This Section. Any person convicted of a violation of this section shall be guilty of a criminal misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment in jail for not more than 90 days, or by both such fine and imprisonment. (Ord. 1993 § 9, 1994; Ord. 1937 § 1, 1993).

6.57.050 Leaving children unattended in standing vehicle with motor running.

(1) No person, while operating or in charge of a vehicle, shall park or willfully allow such vehicle to stand upon a public highway or in a public place with its motor running, leaving a minor child or children under the age of 16 years unattended in the vehicle.

(2) Any person convicted of a violation of this section shall be guilty of a criminal misdemeanor and shall be punished by a fine not to exceed $1,000 or by imprisonment in jail for not more than 90 days, or by both such fine and imprisonment. (Ord. 2074 § 1, 1996).

Chapter 6.58

ALCOHOLIC BEVERAGE CONTROL

Sections:

6.58.010 Statutes incorporated by reference.
6.58.020 RCW 66.44.100 supplemented.

6.58.010 Statutes incorporated by reference.

The following statutes relating to alcoholic beverage control are incorporated by reference, subject to any amendments to said statutes which are adopted in later sections of this chapter:

RCW

66.04.010 Definitions.
66.44.100 Opening or consuming liquor in a public place prohibited.
66.44.130 Sale of liquor by drink or bottle.
66.44.140 Unlawful manufacture, sale or transportation of liquor.
66.44.150 Buying liquor illegally.
66.44.160 Illegal possession and transportation of alcoholic beverages.
66.44.170 Illegal possession of liquor with intent to sell.
66.44.200 Sale to persons apparently under the influence of liquor.
66.44.210 Obtaining liquor for ineligible person.
66.44.240 Drinking in public conveyance – Penalty against carrier.
66.44.250 Drinking in public conveyance – Penalty against individual.
66.44.265 Candidates giving or purchasing liquor on election day.
66.44.270 Furnishing liquor to minors; use and possession of liquor by minors.
66.44.290 Minor purchasing or attempting to purchase liquor.
66.44.291 Penalty against persons between the ages of 18 and 21 inclusive.
66.44.300 Giving or purchasing liquor for a minor.
66.44.310
(1) Serving liquor to minors; minors frequenting taverns; minors misrepresenting their age.
66.44.320 Sale of liquor to minors.
66.44.325 Unlawful transfer to a minor of an identification of age.
66.44.328 Counterfeit or facsimile identification cards.
66.44.370 Resisting or opposing a peace officer.

(Ord. 1669 § 1, 1989).

6.58.020 RCW 66.44.100 supplemented.

The prohibition against opening or consuming liquor in a public place shall include Jennings Park Barn, even when the same is being used by private groups, and shall include Cedarcrest Golf Course, but shall not include Cedarcrest Restaurant. (Ord. 1669 § 1, 1989).

Chapter 6.60

WEAPONS CONTROL

Sections:

6.60.010 Statutes incorporated by reference.
6.60.030 Air guns.
6.60.040 Confiscation.
6.60.050 Disposition of firearms.

6.60.010 Statutes incorporated by reference.

The following statutes regarding weapons control are incorporated by reference:

RCW

9.41.010 Terms defined.
9.41.050 Carrying firearms.
9.41.060 Exceptions to restrictions on carrying firearms.
9.41.120 Firearms as loan security.
9.41.140 Alteration of identifying marks – Exceptions.
9.41.230 Aiming or discharging firearms, dangerous weapons.
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9.41.250 Dangerous weapons – Penalty.
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9.41.270 Weapons apparently capable of producing bodily harm – Unlawful carrying or handling – Penalty – Exceptions.
9.41.280 Possessing dangerous weapons on school facilities – Penalty – Exemptions.
9.41.300 Weapons prohibited in certain places – Local laws and ordinances – Exemptions – Penalty.
9.41.810 Penalty.
77.16.250 Loaded firearms in vehicles.
77.16.260 Shooting firearm from public highway.
77.16.290 Law enforcement officers exempt.

(Ord. 2025 § 1, 1995; Ord. 1676 § 2, 1989; Ord. 1615 § 2, 1988; Ord. 965 § 18.01, 1977).

6.60.030 Air guns.

(1) As used in this chapter, "air gun" means and includes the following: air guns, paint ball guns, air pistols, air rifles, BB guns, and toy guns of any kind or nature when designed, contrived, modified and used to propel, by compressed air or spring-loaded plunger, any pellet, dart, hardtipped arrow, bean, pea, BB, rock, gel cap, paint ball or other hard substance a distance of more than 25 feet with sufficient force to break windows or inflict injury upon persons or animals.

(2) Except as hereinafter provided, it is unlawful:

(a) For any person under 18 years of age to carry or shoot any air gun within the city when not in the presence of his parent or other adult in loco parentis and under the direction and control of such adult;

(b) For any person to point or shoot an air gun at any person or property of another, or to aim or discharge such weapons in the direction of the person or residence of another while within such range as to cause or inflict injury to the person or damage the property of another;

(c) For any parent or person in loco parentis to allow, give or permit the possession of any air gun falling within the definitions contained in this section to any child under the age of 18 years, except under the provisions of subsection (2)(a);

(d) For any merchant to sell or rent any air guns to minors under 16 years of age, except when such minor is in the presence of his parent or other adult in charge of such child.

(3) The provisions of subsection (2)(a) and (2)(c) shall not apply when:

(a) Any such minor is possessing or using such weapons on a gun range operated or conducted by any school, educational institution or other regulated group pursuant to rules and regulations provided by the chief of police or city ordinance and licensed by the city;

(b) Such minor is possessing or using such air gun with a regulated or supervised course or range provided by the city park department under regulations or ordinances duly promulgated and adopted therefor;

(c) Any such minor is carrying such weapon unloaded or otherwise properly dismantled to and from such licensed or authorized course.

(4) Any person convicted of violation of the provisions of this section shall be punished by a fine in a sum not exceeding $100.00. (Ord. 2207, 1998; Ord. 965 § 18.03, 1977).

6.60.040 Confiscation.

The chief of police and his or her designees shall confiscate any and all firearms or other weapons found to be in the possession of a person under the circumstances contained in RCW 9.41.098 as now or hereafter amended. After confiscation, the firearm or other weapon shall not be surrendered except:

(1) To the prosecuting attorney for use in subsequent legal proceedings;

(2) For disposition according to an order of a court of competent jurisdiction;

(3) To the owner in compliance with the provisions of RCW 9.41.098 as now or hereafter amended; or

(4) As otherwise authorized by this chapter. (Ord. 2025 § 2, 1995; Ord. 965 § 18.04, 1977).

6.60.050 Disposition of firearms.

All firearms taken into the custody of the Marysville police department on or after July 1, 1993, and that are judicially forfeited or forfeited due to a failure to make a claim under RCW 63.40.010, are to be disposed of as follows:

(1) The Marysville police department may retain legal firearms for agency use.

(2) The chief of police, or his designee, may auction or trade legal firearms to properly licensed commercial sellers, as deemed appropriate by the chief of police or his designee. All proceeds of an auction/trade may be retained by the Marysville police department for agency use.

(3) The chief of police or his designee may destroy legal firearms in lieu of subsections (1) and (2) above at the discretion of the chief of police.

(4) Firearms determined by the chief of police or his designee to be illegal for any person to possess shall be destroyed.

(5) No firearm shall be disposed of while it is needed for evidence. (Ord. 2025 § 3, 1995).

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Chapter 6.76

NOISE REGULATION

Sections:

6.76.010 Declaration of policy.
6.76.020 Definitions.
6.76.030 Identification of environments.
6.76.040 Maximum permissible environmental noise levels.
6.76.050 Exemptions.
6.76.060 Public nuisance and disturbance noises.
6.76.070 Motor vehicle noise levels.
6.76.080 Variances.
6.76.090 Penalty for violation.

6.76.010 Declaration of policy.

It is hereby declared to be the policy of the city of Marysville to minimize the exposure of citizens to the harmful, physiological and psychological effects of excessive noise. It is the express intent of the city to control the level of noise in a manner which promotes commerce, the use, value and enjoyment of property, sleep and repose, and the quality of the environment. (Ord. 1419 § 1, 1985).

6.76.020 Definitions.

All technical terminology used in this chapter, not otherwise defined, shall be interpreted in conformance with Chapters 173-60 and 173-62 WAC. The following words and phrases shall have the meanings indicated below:

(1) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

(2) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

(3) "Noise" means the intensity, duration and character of sounds, from any and all sources.

(4) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

(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.

(7) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the America National Standards Institute Specification S1.4-1971. (Ord. 1419 § 2, 1985).

6.76.030 Identification of environments.

(1) Class A EDNA. Lands where human beings reside and sleep, including all properties in the city which are zoned and single-family residential or multiple-family residential classifications.

(2) Class B EDNA. Lands involving uses requiring protection against noise interference with speech, including all properties in the city which are zoned in neighborhood business, community business, general commercial and freeway service classifications.

(3) Class C EDNA. Lands involving economic activities of such a nature that higher noise levels than experienced in other areas is normally to be anticipated. Persons working in these areas are normally covered by noise control regulations of the Department of Labor and Industries. Such areas shall include all properties in the city which are zoned in light industrial and general industrial classifications. (Ord. 1419 § 3, 1985).

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).

6.76.050 Exemptions.

The exemptions to the maximum permissible environmental noise levels set forth in WAC 173-60-050 are hereby adopted by reference. (Ord. 1419 § 5, 1985).

6.76.060 Public nuisance and disturbance noises.

It is unlawful for any person to cause, or for any person in possession of property to allow to originate from said property, sound that is a public nuisance. The following sources of sound are defined to be public nuisances, except to the extent that they may be specifically exempted by other provisions of this chapter:

(1) Frequent, repetitive or continuous noise made by any animal which unreasonably disturbs

or interferes with peace, comfort and repose of property owners or possessors, except that such sounds shall be exempt when originating from lawfully operated animal shelters, kennels, pet shops, and veterinary clinics;

(2) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

(3) The creation of frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine within Class A EDNA, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;

(4) Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time and place so as to unreasonably disturb or interfere with peace, comfort and repose of owners or possessors of real property;

(5) The use of a sound amplifier or other device capable of producing or reproducing amplified sound on public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;

(6) The making of any loud and raucous noise which unreasonably interferes with the use of any school, church, hospital, sanitarium, nursing or convalescent facility;

(7) The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings;

(8) Sound from motor vehicle audio systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source, and if not operated upon the property of the operator;

(9) Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source, and if not operated upon the property of the operator; and

(10) The foregoing provisions shall not apply to regularly scheduled events at parks such as public address systems for baseball games or park concerts. (Ord. 1958 § 1, 1993; Ord. 1419 § 6, 1985).

6.76.070 Motor vehicle noise levels.

(1) Noise Standards; Violations. No person shall operate any motor vehicle or any combination of such vehicles upon any public highway in violation of standards specified in WAC 173-62-060(1) through (4), which section is hereby adopted by reference. For purposes of this chapter, "public highway" means the entire width between the boundary lines of every road, street, alley, lane, boulevard, parking lot, and every way or place in the city, whether publicly or privately maintained, when any part thereof is open at any time to the use of the public for purposes of vehicular traffic.

(2) Exemptions. The exemptions to motor vehicle noise as stated in WAC 173-62-040 are hereby adopted by reference. (Ord. 1419 § 7, 1985).

6.76.080 Variances.

(1) The board of adjustment shall have authority to grant variances from the requirements of this chapter. Variance procedures specified in Chapter 19.44 MMC shall apply. The application fee shall be $50.00.

(2) Variances may be granted to any person from any particular requirement of this chapter, if findings are made by the board of adjustment that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of non availability of feasible technology or control methods. Any such variance, or renewal thereof, shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

(3) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued. (Ord. 1419 § 8, 1985).

6.76.090 Penalty for violation.

(1) Motor Vehicle Offenses. All offenses defined in this chapter relating to the operation of motor vehicles, including specifically a violation of MMC 6.76.060(8), shall constitute traffic infractions, and a violator shall be civilly liable for a monetary penalty as specified in MMC 11.04.090.

(2) Other Noise Offenses. All other noise offenses defined in this chapter shall constitute misdemeanors, and a violation shall be punishable by a fine not to exceed $1,000.

(3) Separate Offenses. Each day for which a violation continues, or is repeated, shall constitute a separate offense.

(4) Supplement to Other Laws. The provisions of this chapter, and the penalties provided herein, shall be cumulative and nonexclusive, and shall not affect any other claim, cause of action, or remedy provided in the Marysville Municipal Code or by common law. (Ord. 2255 § 1, 1999; Ord. 1419 § 9, 1985).

Chapter 6.79

BURGLAR ALARMS[1]

Sections:

6.79.010 False alarm – Defined.
6.79.020 Activation.
6.79.030 False alarm – Penalty.
6.79.040 Direct telephone dialing alarm system – Prohibited.
6.79.050 Outside audible system – Restrictions.
6.79.060 Systems exempt from restrictions.
6.79.070 Installation of alarms.
6.79.080 Violation – Civil infraction.

6.79.010 False alarm – Defined.

"False alarm" means the activation of a burglary and/or robbery alarm by other than forced entry or attempted forced entry to the premises at a time when no burglary or robbery is being committed or attempted on the premises. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.020 Activation.

It is a violation of this chapter for anyone to activate or attempt to activate any burglar and/or robbery alarm system for the purpose of summoning the police except in the event of actual or attempted burglary or robbery in or about such premises. Further, it is unlawful for anyone to notify the police of an activated alarm when such person has knowledge that such activation was apparently caused by an electrical or other malfunction of the alarm system, and such person fails to notify the police of such apparent malfunction. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.030 False alarm – Penalty.

For a police response to any such burglary and/or robbery alarm, the following penalties shall apply:

(1) For a police response to premises at which no other false alarm has occurred within the preceding six-month period, hereinafter referred to as a "first response," no fine shall be assessed.

(2) For any police response to a false alarm within six months after a first response, a civil infraction carrying a fine of $100.00 shall be assessed.

(3) For any police response to a false alarm, the alarm user, hereinafter referred to as "alarm responder," shall be required to respond to the pre-

1. Prior legislation: Ordinances 992 and 1565.

mises in person or through phone contact within 45 minutes. When responding to the premises in person the alarm responder shall notify the police of estimated time of arrival. Failure to respond in person or through phone contact within 45 minutes after the police department has been notified that there has been a false alarm shall result in an additional civil infraction and a fine of $100.00.

(4) All fines shall be paid within 30 calendar days after written notification by the Marysville municipal court. If repeated alarms are the result of failure to take necessary precautions or corrective action by the owner or occupant of the premises, or if the chief of police or his/her designated representative determines that the alarm is defective, or if the owner or occupant fails to pay any fine required in this chapter, the chief of police may order the disconnection of the alarm system. It is a violation of this chapter and a civil infraction and a fine of $200.00 to reconnect the alarm system without approval of the chief of police. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.040 Direct telephone dialing alarm system – Prohibited.

Direct telephone dialing alarm systems to the police department are prohibited. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.050 Outside audible system – Restrictions.

No outside audible burglary and/or robbery alarm system which is not equipped with a timing device limiting the period of audible alarm to five minutes continual operation and precluding recycling shall be in operation within the city on or after 60 days of the effective date of the ordinance codified in this chapter. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.060 Systems exempt from restrictions.

No provision of this chapter shall in any way prohibit, curtail or limit the use of outside audible fire alarm systems now in use which are activated by heat or by lack of water pressure or similar means. No provision of this chapter shall in any way prohibit, curtail or limit the use of any alarm system which is otherwise required or regulated by state or federal law. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.070 Installation of alarms.

Every company which either sells or installs a new alarm at any premises within the city limits or any resident having an alarm installed on their private residence or business shall be required within five working days of said installation to notify the police department of all relevant subscriber information including, but not limited to, the name and address of the owner or resident of the premises and the name(s) and telephone number(s) of the person(s) who will be responding to all alarms.

It is unlawful and a civil infraction to have or maintain on any premises a burglary and/or robbery alarm unless there is on file with the Marysville police department an emergency contact card. The form can be obtained from the police department and will require the name(s) and telephone number(s) of person(s) authorized to enter such premises and turn off any alarm. This form must be completed and submitted to the police department within five working days. All premises having a burglary and/or robbery alarm will display an alarm registration sticker, provided by the city, in a conspicuous manner adjacent the entrance or exit doors to the premises. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

6.79.080 Violation – Civil infraction.

Any person, firm or corporation violating any provision of this chapter shall have committed a civil infraction and, upon a finding of the violation to have occurred, and in addition to any such fines as are referenced in MMC 6.79.030, shall pay a civil penalty of up to $200.00. Each violation shall be considered a separate infraction. (Ord. 2477 § 1, 2003; Ord. 1954, 1993).

Chapter 6.80

CURFEW[1]

Sections:

6.80.010 Established.
6.80.020 Definitions.
6.80.030 Exemptions.
6.80.040 Temporary custody procedure.
6.80.050 Parental responsibility.
6.80.060 Violations.

6.80.010 Established.

No minor who is under the age of 18 years shall be in or upon any public street, highway, alley, park, vacant lot or other public place between the hours of 10:00 p.m. and 5:00 a.m.; provided, however, on nights when the following day is not a school day and during times when school is not in session due to vacations, no minor who is under the age of 18 years shall be in or upon any public street, highway, alley, park, vacant lot or other public place between the hours of 11:00 p.m. and 5:00 a.m.; provided, further, any person who is age 16 or 17 and who has on his/her person a state-approved picture identification shall be exempt from all provisions of this chapter. (Ord. 2122 § 1, 1997).

6.80.020 Definitions.

"Public place," as used in this chapter, means an area generally visible to public view, and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them. (Ord. 2122 § 2, 1997).

6.80.030 Exemptions.

The provisions of this chapter shall not apply in the following situations:

(1) At any time, if the minor is accompanied by his or her parent, legal guardian, or other responsible person who is over the age of 21 and approved by the minor's parent, guardian, custodian or other adult person having custody or control of such minor to accompany said minor.

(2) If the minor is on an errand as directed by his or her parent, guardian, custodian or other adult person having custody or control of such minor.

(3) If the minor is legally employed, for the period one-half hour before to one-half hour after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment.

(4) If the minor is within one block of his/her residence.

(5) If the minor is coming directly home from an adult organized/supervised activity or a place of public entertainment, such as movie, play or sporting event. This exception will apply for one-half hour after the completion of such event.

(6) If the minor is on an emergency errand directed or permitted by his parent, guardian, custodian or other adult person having custody or control of such minor.

(7) If the minor is traveling by direct routes to or from an event sponsored by an accredited educational institution.

(8) If the minor is in a motor vehicle and engaged in interstate travel with the consent of a parent, guardian, custodian or other adult person having custody or control of such minor through the state of Washington. (Ord. 2122 § 3, 1997).

6.80.040 Temporary custody procedure.

A police officer who reasonably believes that a minor is violating any of the provisions of this chapter shall have the authority to take the minor into custody and deliver or arrange to deliver the minor either to:

(1) The minor's parent, guardian, custodian or other adult person; or

(2) The Marysville police station or other facility operated by the Marysville police department; or

(3) The appropriate juvenile authority. (Ord. 2122 § 4, 1997).

6.80.050 Parental responsibility.

It shall be unlawful for the parent, guardian or other adult person having custody or control of a minor under the age of 18 years to permit or by inefficient control to allow a violation of this ordinance by a minor in his or her custody or control. (Ord. 2122 § 5, 1997).

6.80.060 Violations.

(1) A violation of any of the provisions of this chapter is designated a civil infraction.

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1. Section 8 of Ord. 2122 provides as follows: "This ordinance shall automatically be repealed from and after three years of the effective date hereof unless extended by action of the City Council." Ord. 2122 became effective June 1, 1997.

(2) A person found to have committed an infraction under this chapter shall be assessed a monetary penalty. No penalty may exceed $250.00 for each offense. In lieu of payment for all or part of the monetary penalty, the court may provide for the performance of community service. (Ord. 2122 § 6, 1997).

Title 7

HEALTH AND SANITATION[1]

Chapters:

7.04 Unsanitary Conditions – Nuisances
7.05 Camping
7.06 Solid Waste Management
7.08 Garbage Collection
7.12 Uniform Litter Control Code
7.16 Washington Clean Indoor Air Act

1. For provisions regarding animals suspected of rabies, see MMC Title 10; for provisions regarding the city's right to make and enforce police and sanitary regulations not in conflict with general law, see Washington State Constitution Article 11 § 11.

Chapter 7.04

UNSANITARY CONDITIONS – NUISANCES

Sections:

7.04.010 Offensive and unsanitary premises for animals.
7.04.020 Accumulation of manure – Penalty.
7.04.030 Offensive privy, pool, yard – Penalty.
7.04.040 Obstructing waterways so as to cause stagnation – Penalty.
7.04.050 Allowing stagnant water to stand on premises – Penalty.
7.04.060 Depositing filth and dead animals within city limits – Penalty.
7.04.070 Order of abatement on conviction.
7.04.080 Failure to abate on order – Penalty.
7.04.090 Procedure for abatement – Costs as lien.
7.04.100 Service of notice to abate – Penalty for failure.
7.04.110 Person defined.
7.04.120 Him defined.

7.04.010 Offensive and unsanitary premises for animals.

All pens, stables, barns, kennels, yards and other premises where animals are confined or kept for private or commercial purposes shall be maintained in a clean condition so as to avoid unhealthy conditions for the animals or accumulation of animal waste; provided, however, said requirements shall not pertain to customary farm or agricultural practices. Any person who owns, occupies or has charge of premises which violate this section shall be deemed guilty of maintaining a nuisance and shall be punished by a fine not to exceed $300.00 or by imprisonment not to exceed three months, or by both such fine and imprisonment. (Ord. 1828, 1991; Ord. 65 § 1, 1894).

7.04.020 Accumulation of manure – Penalty.

Whoever shall suffer or permit to accumulate on any premises owned or occupied by him or under his control, any manure in such manner as to emit noxious, disagreeable or offensive odors to the annoyances or detriment of any family or person, or shall place the contents of any privy vault in or upon any public street, alley or common, shall be deemed guilty of maintaining a nuisance; and on conviction, shall be punished by a fine not less than $5.00 nor more than $25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 2, 1894).

7.04.030 Offensive privy, pool, yard – Penalty.

Whoever shall suffer or permit any cellar, vault, drain, pool, privy, sewer, yard, ground or premises, owned or occupied by him or under his control, to become, from any cause, nauseous, foul or offensive, or injurious to the public health, or unpleasant or disagreeable to adjacent residents or persons, shall be deemed guilty of permitting or maintaining a nuisance and, on conviction, shall be punished by a fine not less than $5.00 nor more than $25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 3, 1894).

7.04.040 Obstructing waterways so as to cause stagnation – Penalty.

Whoever shall place, erect or maintain any obstructions in or across any watercourse, stream, brook or ravine, or other place, so as to cause water to stand or stagnate therein, or shall place or deposit therein any noxious or offensive matter or any straw, hay, manure or dead animal, or other particle or substance, or whoever shall by any means dam or obstruct any sewer drain or gutter shall be deemed guilty of creating and maintaining a nuisance and, upon conviction, shall be punished by a fine not less than $5.00 nor more than $25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 4, 1894).

7.04.050 Allowing stagnant water to stand on premises – Penalty.

Whoever shall suffer or permit any water to stand upon any premises owned, occupied or controlled by him, so that the same shall become stagnant, foul, offensive or injurious to the public health, shall be deemed guilty of maintaining a nuisance and, upon conviction, shall be punished by a fine not less than $5.00 nor more than $25.00, or by imprisonment for a period of not more than 10 days. (Ord. 65 § 5, 1894).

7.04.060 Depositing filth and dead animals within city limits – Penalty.

Whoever shall deposit or place in or upon any premises, public or private, enclosed or common, within the city, any vegetable or animal matter or filth of a character likely to affect the public health, or to produce offensive odors, and whoever shall place or deposit in or upon any such premises the carcass of any dead animal to be or remain unburied within the city limits for more than 24 hours after its death, shall be deemed guilty of creating and maintaining a nuisance and, upon conviction, shall be punished by a fine not less than $5.00 nor

more than $25.00, or by imprisonment not exceeding 10 days. (Ord. 65 § 6, 1894).

7.04.070 Order of abatement on conviction.

When judgment shall be rendered against any person creating or maintaining a nuisance, it shall be the duty of the court, before whom such conviction shall be had, to order the defendant in such suit to forthwith abate and remove such nuisances, and if the same be not done by such defendant within 24 hours, the same shall be abated and removed under the direction of the chief of police. Said order shall be entered upon the docket of the court and be made part of the judgment in the cause. (Ord. 65 § 9, 1894).

7.04.080 Failure to abate on order – Penalty.

Any person, having been found guilty of creating or maintaining any nuisance, who shall neglect or fail to abate and remove such nuisance within 24 hours next after his conviction thereof, shall be subject to a fine of not less than $5.00 nor more than $25.00, or to imprisonment for a period not exceeding 10 days. (Ord. 65 § 10, 1894).

7.04.090 Procedure for abatement – Costs as lien.

The chief of police is authorized, whenever nuisances shall exist within the city, to notify the person owning, controlling, occupying or in charge of the premises upon which the nuisance exists, to abate the same within two days; and if the same is not abated within said time then it shall be the duty of the chief of police to abate the same, and the expenses thereof shall be assessed against the said property and shall become a lien thereon, and the owner, occupier or person in control, or who has charge of said property, shall become liable to the city for the amount thereof, and said lien may be enforced and foreclosed by an action brought in the name of the city of Marysville, by the city attorney, and the city attorney shall receive therefor a fee of $25.00 which shall also become a lien upon the property. (Ord. 65 § 11, 1894).

7.04.100 Service of notice to abate – Penalty for failure.

It shall be the duty of the chief of police, whenever he shall have notice of the existence of a nuisance in the city, to notify the owner or person who has control of, or who occupies the premises upon which the nuisance is situated, to vacate and abate the same, and any person who shall violate the terms of any notice of service upon him in pursuance herein, shall upon conviction be punished by a fine not less than five nor more than $25.00, or by imprisonment for a period not exceeding 10 days. (Ord. 65 § 12, 1894).

7.04.110 Person defined.

Whenever the word "person" occurs or is used in this chapter, it applies to a corporation, company, or person as the case may be. (Ord. 65 § 13, 1894).

7.04.120 Him defined.

Whenever "him" is used in this chapter, it means him, her, or them, as the case may be. (Ord. 65 § 14, 1894).

Chapter 7.05

CAMPING

Sections:

7.05.010 Unlawful camping.
7.05.020 Storage of personal property in public places.
7.05.030 Definitions.
7.05.040 Penalty for violations.
7.05.050 Parked recreational vehicles exempt.
7.05.060 Permit.

7.05.010 Unlawful camping.

It shall be unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in the following areas, except as otherwise provided by ordinance or as permitted pursuant to MMC 7.05.060:

(1) Any park;

(2) Any street;

(3) Any publicly owned parking lot or publicly owned area, improved or unimproved. (Ord. 2159 § 1, 1997).

7.05.020 Storage of personal property in public places.

It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas, except as otherwise provided by ordinance or as permitted pursuant to MMC 7.05.060:

(1) Any park;

(2) Any street;

(3) Any publicly owned parking lot or publicly owned area, improved or unimproved. (Ord. 2159 § 1, 1997).

7.05.030 Definitions.

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Camp" means to pitch or occupy camp facilities, to use camp paraphernalia.

(2) "Camp facilities" include, but are not limited to, tents, huts or temporary shelters.

(3) "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or noncity designated cooking facilities and similar equipment.

(4) "Park" means those areas subject to the executive and administrative responsibility of the parks and recreation department established by Chapter 2.20 MMC.

(5) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(6) "Street" means any highway, lane, road, street, right-of-way, boulevard, alley and every way or place in Marysville open as a matter of right to public vehicular travel. (Ord. 2159 § 1, 1997).

7.05.040 Penalty for violations.

Violation of any of the provisions of this chapter is a misdemeanor, and shall be punished as follows:

(1) First Offense. Any person violating any of the provisions of this chapter shall, upon conviction of such violation, be punished by a fine of not more than $1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment.

(2) Second Offense. Every person who violates any of the provisions of this chapter a second time within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not more than $1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. One hundred dollars of the fine and one day of imprisonment shall not be suspended or deferred.

(3) Third or Subsequent Offense. Every person who violates any of the provisions of this chapter a third or more times within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not more than $1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. Five hundred dollars of the fine and five days' imprisonment shall not be suspended or deferred.

(4) If a person is unable to pay the monetary penalty set forth in subsections (1), (2) or (3) of this section, the court may order performance of a number of hours of community service in lieu of a monetary penalty. (Ord. 2159 § 1, 1997).

7.05.050 Parked recreational vehicles exempt.

The provisions of this chapter shall not apply to recreational vehicles parked on any residential street for a period of not greater than 24 hours. For purposes of this chapter, "recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot; provided, that recreational vehicles not owned by the owner or tenant of real property may park on the real property of another for a period not exceeding 14 consecutive

days in a one-year period. (Ord. 2337 § 1, 2000; Ord. 2159 § 1, 1997).

7.05.060 Permit.

(1) The chief of police is authorized to permit persons to camp, occupy camp facilities, use camp paraphernalia, or store personal property in parks, streets, or any publicly owned parking lot or publicly owned area, improved or unimproved, in the city of Marysville.

(2) The chief of police shall approve a permit as provided under this section when, from a consideration of the application and from such other information as may otherwise be obtained, the chief finds that:

(a) Adequate sanitary facilities are provided and accessible at or near the camp site;

(b) Adequate trash receptacles and trash collection is to be provided;

(c) The camping activity will not unreasonably disturb or interfere with the peace, comfort and repose of private property owners; and

(d) The camping activity is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

(3) The chief of police is authorized to promulgate rules and regulations regarding the implementation and enforcement of this chapter.

(4) No permit shall be issued for a period of time in excess of seven calendar days.

(5) Any person denied a permit may appeal the denial to city council. Notice of appeal must be in writing, and filed with the city clerk within seven calendar days from the date notice of the denial is received. (Ord. 2159 § 1, 1997).

Chapter 7.06

SOLID WASTE MANAGEMENT

Sections:

7.06.010 Purpose.
7.06.020 Definitions.
7.06.030 Snohomish County comprehensive solid waste management plan adopted.
7.06.040 Disposal of solid waste.
7.06.050 Unlawful disposal of solid waste.

7.06.010 Purpose.

The purpose of this chapter is to establish a comprehensive solid waste management plan for the city which is consistent with, and a part of, the Snohomish County comprehensive solid waste management plan, as required by Chapter 70.95 RCW. The goals and objectives of the plan are to reduce the generation of solid waste, to encourage recycling, and to dispose of solid waste in a manner which prevents land, air and water pollution and conserves the natural and economic resources of the city and the region. (Ord. 1768 § 1, 1990).

7.06.020 Definitions.

As used in this chapter, the following definitions apply:

(1) "Comprehensive solid waste management plan" or "comprehensive plan" means the Snohomish County Comprehensive Solid Waste Management Plan, including a recycling element, as adopted by Snohomish County in 1990, and as amended from time to time.

(2) "County" means Snohomish County, Washington.

(3) "Interlocal agreement" means the Interlocal Agreement Regarding Solid Waste Management executed by the county and the city in 1990, including any duly approved amendments or revisions thereto.

(4) "Person" means an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(5) "Solid waste" or "waste" means solid waste as defined by RCW 70.95.030(16) and WAC 173-304-100(73) with the exception of wastes excluded by WAC 173-304-015.

(6) "Solid waste handling" means all activities defined in RCW 70.95.030(17).

(7) "System" means all facilities for solid waste handling owned or operated, or contracted for, by the county, and all administrative activities related thereto; provided, that the same shall be consistent with the comprehensive plan. (Ord. 1768 § 1, 1990).

7.06.030 Snohomish County comprehensive solid waste management plan adopted.

The Snohomish County comprehensive solid waste management plan, as approved in 1990 and as the same may hereafter be amended, is hereby adopted by reference as the comprehensive solid waste management plan for the city. (Ord. 1768 § 1, 1990).

7.06.040 Disposal of solid waste.

(1) All solid waste generated within the corporate limits of the city shall be disposed of through the system, as provided for in the comprehensive plan, except as otherwise provided in subsection (4) of this section.

(2) Snohomish County is authorized to designate disposal sites for the disposal of all solid waste which is generated within the city, subject to the applicable laws and regulations of the Snohomish health district and of any city in which said disposal sites are located.

(3) No solid waste may be diverted from the designated disposal sites without county approval, or as provided in the comprehensive plan.

(4) The provisions of this section shall not apply:

(a) To the disposal of solid waste through the waste recycling element of the comprehensive plan or any waste reduction or recycling plan approved by the county;

(b) To the disposal of hazardous wastes or substances where disposal into the system is prohibited or where other provisions pursuant to state or federal law are made for the handling of such wastes or substances;

(c) Where disposal is otherwise provided for under state or federal law. (Ord. 1768 § 1, 1990).

7.06.050 Unlawful disposal of solid waste.

(1) It is unlawful for any person to dispose of any solid waste generated in the city and subject to this chapter unless such person complies with the provisions of RCW 70.95.240, 70.95.500 and 70.95.610, which are hereby adopted by this reference.

(2) Any violations of RCW 70.95.240, 70.95.500 or 70.95.610 shall be a misdemeanor, and any person found guilty thereof shall be punished by a fine not to exceed $1,000 or imprisonment in jail not to exceed 90 days or by both such fine and imprisonment. (Ord. 1768 § 1, 1990).

Chapter 7.08

GARBAGE COLLECTION

Sections:

7.08.010 Purpose.
7.08.012 Definitions.
7.08.020 Administrative responsibility.
7.08.030 Compulsory garbage collection service.
7.08.031 Compulsory recyclable collection service.
7.08.032 Optional recyclable collection service.
7.08.033 Optional yard waste collection service.
7.08.035 Exemptions from city garbage collection service.
7.08.040 Garbage collection hauling and disposal businesses prohibited.
7.08.050 Garbage refuse and waste defined.
7.08.055 Scavenging prohibited.
7.08.060 Receptacles required – Specifications and use.
7.08.065 Accessibility of containers.
7.08.067 Litter around containers.
7.08.070 Special arrangements for business establishments.
7.08.080 Unlawful dumping.
7.08.090 Frequency of collection.
7.08.095 Temporary discontinuance of collection service.
7.08.100 Billing for collection service delinquent bills – Liens.
7.08.110 Rate schedule.
7.08.111 Yard waste rate schedule.
7.08.112 Commercial recyclable collection rates.
7.08.113 Multi-family recyclable collection rates.
7.08.115 Eligibility for senior citizen rate.
7.08.120 Special services performed by city – Owner's cost.
7.08.125 Waiver of garbage fees for new buildings under construction.
7.08.130 Garbage disposal fund.
7.08.150 Penalty for violations.

7.08.010 Purpose.

The city finds that it is in the interest of the public health, safety and welfare to require and regulate the removal, collection and disposal of garbage, refuse, waste, rubbish, debris, discarded food, animal and vegetable matter, brush, grass, weeds, cans, glass, ashes, offal, boxes and cuttings from trees, lawns and gardens, swill and dead animals. (Ord. 2540 § 1, 2004; Ord. 1186 § 1, 1981; Ord. 436 § 1, 1957).

7.08.012 Definitions.

As used in this chapter, unless the context indicates otherwise:

(1) "Garbage" means all putrescible solid and semisolid wastes, including but not limited to animal and vegetable wastes. "Garbage" does not include the following:

(a) Recyclable refuse and yard waste as defined below;

(b) Primary products of public, private, industrial, commercial, mining and agricultural operations;

(c) Sludge and septage;

(d) Wood waste as defined by WAC 173-304-100(91);

(e) Dangerous or hazardous wastes as defined in RCW 70.105.010 and/or Chapter 173-303 WAC;

(f) Abandoned vehicles or parts thereof;

(g) Demolition wastes as defined by WAC 173-304-100(19);

(h) Problem wastes as defined by WAC 173-304-100(61);

(i) Medical wastes as defined by WAC 173-304-100(47);

(j) Agricultural wastes as defined by WAC 173-304-100(2);

(k) Industrial solid wastes as defined by WAC 173-304-100(39);

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

(m) Radioactive wastes as defined by Chapters 402-12 and 402-19 WAC;

(n) Rubber tires; or

(o) Oil.

(2) "Garbage and refuse" is a generic term used in this chapter to mean garbage, recyclable refuse and yard waste as defined in this section.

(3) "Recyclable refuse" means:

(a) Newspapers;

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

(c) P.E.T. (recyclable plastic), glass, aluminum and other metal food and beverage containers.

(4) "Yard waste" means leaves, grass, prunings and clippings of woody as well as fleshy plants. Materials larger than four inches in diameter and three feet in length shall not be considered yard waste. Yard waste does not include dirt, rocks, sod and such items as pumpkins and apples. Christmas trees will be considered yard waste if they have been cut and bundled to a maximum length of three feet.

(5) "Excess refuse" is disposable garbage secured in one or more heavy duty plastic bags as required by MMC 7.08.060(4), or in a garbage container as described in MMC 7.08.060(4), and is in addition to the number of containers for which a customer has requested regular service. Excess refuse shall not include "recyclable refuse" or "yard waste" as defined above. (Ord. 2540 § 1, 2004; Ord. 1849 § 1, 1991; Ord. 1822 § 1, 1991).

7.08.020 Administrative responsibility.

Administrative responsibility for garbage and refuse collection, and enforcement of all provisions of this chapter, shall be vested in the utility department of the city of Marysville. (Ord. 2540 § 1, 2004; Ord. 1140 § 1, 1980; Ord. 928 § 1, 1977; Ord. 436 § 2, 1957).

7.08.030 Compulsory garbage collection service.

The owner and occupant of all occupied premises within the city of Marysville shall be required to use the garbage collection and disposal service provided by the city utility department, and to comply with all regulations and rate schedules relating to the same, as specified in this chapter; provided, that the compulsory service shall not apply to properties which are located in areas of the city temporarily covered by a franchise granted by the city to a private garbage collection and disposal company, and use of the company's services shall be optional; provided, further, compulsory garbage service shall not be required for single-family residences which meet all of the following conditions:

(1) The property is two acres or greater in size;

(2) The residence is at least 300 feet from the public right-of-way;

(3) The resident or property does not utilize any other city utility service for any purpose;

(4) The residence is not being served by a private garbage hauler.

An exemption to mandatory garbage service must be initiated by the property owner or occupant of the property by written request which addresses each of the four criteria referenced above. The director of public works or his designee shall review and approve or deny all requests for exemptions based upon the criteria listed above. The decision of the public works director shall be final. In the event an exemption is granted, the exemption will be reviewed on an annual basis and in the event any of the four criteria referenced above are found to no longer apply, the property shall then become subject to the mandatory garbage provisions of this section. (Ord. 2540 § 1, 2004; Ord. 2116, 1997; Ord. 1186 § 2, 1981; Ord. 436 § 3, 1957).

7.08.031 Compulsory recyclable collection service.

The owner and occupant of all residential premises within the city shall be required to use the curbside collection service for recyclable refuse provided by the city's contractor, and shall be required to comply with all regulations and rate schedules relating to the same as specified in this chapter; provided, that this section shall not apply to properties which are located in newly annexed areas of the city temporarily covered by a franchise granted by the city to a private disposal company. (Ord. 2540 § 1, 2004; Ord. 1836 § 1, 1991; Ord. 1822 § 3, 1991).

7.08.032 Optional recyclable collection service.

The owner and occupant of any commercial, industrial or multi-family residential premises within the city shall have the option of voluntarily registering for collection service for recyclable refuse provided by the city's contractor. Such customers shall be required to comply with all regulations and rate schedules relating to the same as specified in this chapter; provided, that this section shall not apply to properties which are located in newly annexed areas of the city temporarily covered by a franchise granted by the city to a private disposal company. (Ord. 2540 § 1, 2004; Ord. 1925 § 3, 1992; Ord. 1836 § 2, 1991; Ord. 1822 § 4, 1991).

7.08.033 Optional yard waste collection service.

The owner and occupant of any premises within the city shall have the option of voluntarily registering for curbside collection service for yard waste provided by the city's contractor. Such customers shall be required to comply with all regulations and rate schedules relating to the same as specified in this chapter; provided, that this section shall not apply to properties which are located in newly annexed areas of the city temporarily covered by a

franchise granted by the city to a private disposal company. (Ord. 2540 § 1, 2004; Ord. 2078 § 1, 1996; Ord. 1854 § 1, 1991; Ord. 1822 § 5, 1991).

7.08.035 Exemptions from city garbage collection service.

Any premises within the city which use garbage containers or drop boxes larger than eight cubic yards in size, or which cannot be emptied by a rearend-load garbage truck shall contract for private garbage collection service with pickups on at least a weekly basis, and shall be exempt from the requirement of using city garbage collection services and paying for the same. (Ord. 2540 § 1, 2004; Ord. 1639, 1988).

7.08.040 Garbage collection hauling and disposal businesses prohibited.

It is unlawful for any person, firm or corporation, other than the city of Marysville, to engage in the business of collection, hauling or disposal of garbage refuse or waste as defined in this chapter, within the city limits without having obtained a franchise for said business issued by the city council. (Ord. 2540 § 1, 2004; Ord. 1140 § 3, 1980; Ord. 436 § 4, 1957).

7.08.050 Garbage refuse and waste defined.

(1) It is unlawful for any person, firm or corporation to use the city's garbage collection service for any waste or refuse which is not defined as "garbage" in MMC 7.08.012(1), or to commingle any such waste or refuse with garbage; provided, that commingling of recyclable refuse with garbage is permitted by commercial or industrial customers who legitimately elect not to register for curbside collection service for recyclable refuse, pursuant to MMC 7.08.032.

(2) It is unlawful for any person, firm or corporation to use the city's recyclable collection service for any garbage, waste or refuse which is not defined as "recyclable refuse" in MMC 7.08.012(3), or to commingle any such garbage, waste or refuse with recyclable refuse.

(3) It is unlawful for any person, firm or corporation to use the city's yard waste collection service for any garbage, refuse or waste which is not defined as "yard waste" in MMC 7.08.012(4), or to commingle any such garbage, waste or refuse with yard waste. (Ord. 2540 § 1, 2004; Ord. 1836 § 3, 1991; Ord. 1822 §§ 2, 6, 1991; Ord. 436 § 5, 1957).

7.08.055 Scavenging prohibited.

It is unlawful for any person, firm or corporation, other than the city, the city's recycling contractor, or a private disposal company franchised by the city, to scavenge, remove or collect any garbage or refuse after it has been set out by a customer for collection at the curbside or other approved location. (Ord. 2540 § 1, 2004; Ord. 1822 § 7, 1991).

7.08.060 Receptacles required – Specifications and use.

(1) It shall be the duty of every person who owns, occupies or controls any dwelling unit, business premises, manufacturing establishment, school, church or other place where garbage and refuse is created or accumulated, to at all times keep or cause to be kept portable containers for the deposit therein of garbage and refuse, and to deposit or cause to be deposited the same therein. In the case of rental units it shall be the responsibility of the owner of the premises to supply the tenants with garbage containers meeting the specifications of this section.

(2) All garbage containers issued by the city shall remain the property of the city.

(3) All garbage containers shall be watertight and shall be kept in a sanitary condition with the outsides thereof clean and free from accumulated grease and decomposing material.

(4) "Excess refuse" must be either in a container that is watertight, of not more than 30-gallon capacity, having two handles at the sides thereof and tight-fitting lids not exceeding 60 pounds in weight when loaded, with a prepaid excess refuse tag attached; or in a heavy-duty 30-gallon garbage bag with the opening adequately secured shut and a prepaid excess refuse tag affixed thereto. The bag must be able to be picked up by the top without loss of contents. Refuse in boxes, paper bags or small grocery bags will not be accepted. Excess refuse without a prepaid tag attached will not be picked up.

"Excess refuse" tags will be available for customers to purchase at the City Hall and at the Jennings Park Office. The city may also arrange for certain retail stores within the corporate limits of the city to sell tags.

(5) Upon request, bulk containers for garbage and refuse will be supplied by the city. Such containers shall be located on concrete pads constructed at grade level to the following specifications:

(a) For bulk containers one to two yards in size the pads shall be five feet by eight feet.

(b) For bulk containers three to six yards in size the pads shall be eight feet by eight feet.

(c) For bulk containers eight yards in size the pads shall be eleven feet by eleven feet.

(6) Bulk containers shall be located so that they are accessible to garbage trucks or may be rolled out on a hard surface. Any roll-out in excess of 20 feet shall be charged an extra fee pursuant to the rate schedule.

(7) Exemptions to required use of city-owned carts (20, 35, 65, 90 gallon) shall be considered on a case-by-case basis. The customer shall be required to provide the city with justification of substantial hardship if the city were to impose the required use of city-owned carts. Final determination shall be at the discretion of the city.

(8) The user of any city-owned container shall exercise reasonable care of the same. Repairs or cleaning which are necessitated by reason of neglect or abuse shall be charged to the user. The user shall be responsible to notify the utility department if container repairs are needed. Failure to do so may be considered as abuse. (Ord. 2540 § 1, 2004; Ord. 1849 § 2, 1991; Ord. 1788 §§ 1, 2, 1990; Ord. 1505, 1987; Ord. 1145, 1980; Ord. 1140 § 4, 1980; Ord. 928 § 5, 1977; Ord. 436 § 6, 1957).

7.08.065 Accessibility of containers.

(1) On the day of collection, it shall be the duty of each garbage customer to place all garbage containers, excess garbage containers, recycling carts and yard waste collection carts in an accessible place abutting the street or alley used by the city garbage trucks to service the subject property.

(a) The garbage containers, excess garbage containers, and carts shall be situated at the edge of the public right-of-way, or at the curbline if such exists.

(b) Place all carts with lids opening toward roadway.

(c) Maintain at least two feet of clearance between each cart, can, or container.

(2) Arrangements may be made for special collection sites for handicapped persons, multiple-family complexes, and commercial and industrial customers. Special collection procedures that involve "additional" or "extra" service may be charged for such service per MMC 7.08.120, Special services performed by city – Owner's cost.

(3) On the day of collection, garbage containers or other receptacles shall be removed by the customer from inaccessible places or underground storage. In the event that any garbage container or other receptacle is inaccessible to the collector, the city shall refuse collection service. Such refusal shall not relieve the customer of the obligation to pay the regular service fee. If the customer wishes to schedule the garbage container or other receptacle to be emptied which was refused service because of inaccessibility, the customer shall be billed an amount equal to an extra pick-up commensurate with their current level of service, as noted in MMC 7.08.110, Rate schedule. This does not relieve the customer of the obligation to pay the regular service fee. (Ord. 2540 § 1, 2004; Ord. 1849 § 3, 1991; Ord. 1822 § 10, 1991;Ord. 1253 § 1, 1982; Ord. 616 § 2, 1968).

7.08.067 Litter around containers.

It is the duty of each customer to keep the area around its garbage and refuse receptacles free from litter. If it is necessary for the city or the city's recycling contractor to clean up the litter around receptacles, the customer's garbage and refuse bill for that month shall be doubled. (Ord. 2540 § 1, 2004; Ord. 1822 § 12, 1991; Ord. 928 § 6, 1977; Ord. 616 § 3, 1968).

7.08.070 Special arrangements for business establishments.

Special arrangements may be made with the utilities department by business establishments having large quantities of dry garbage or refuse in the shape of packing cases, crates, barrels, etc., for the convenient hauling of the same by the garbage collector. (Ord. 2540 § 1, 2004; Ord. 928 § 7, 1977; Ord. 436 § 7, 1957).

7.08.080 Unlawful dumping.

It is unlawful to dump or deposit any garbage or refuse upon any street or alley or on any public or private property except in a receptacle intended for that purpose and with the implied or express consent of the owner of said receptacle. (Ord. 2540 § 1, 2004; Ord. 1822 § 12, 1991; Ord. 436 § 8, 1957).

7.08.090 Frequency of collection.

The garbage and refuse department shall collect, remove and dispose of all garbage and refuse in the residential section of the city at least once each week, and at least once a day, if required, in the business section of the city and from all business houses in the city and from schools. (Ord. 2540 § 1, 2004; Ord. 436 § 9, 1957).

7.08.095 Temporary discontinuance of collection service.

A customer may request voluntary discontinuance of garbage collection service during periods that the premises are vacant. The conditions of such discontinuance shall be as follows:

(1) Three days' advance notice of a request for discontinuance shall be given, in writing, to the city and to the recycling contractor, if applicable.

(2) The customer must simultaneously request discontinuance of water service to the premises pursuant to MMC 14.05.060.

(3) The customer shall pay the city any delinquent fees or charges owed on its garbage and refuse account.

Following such discontinuance, no charges for garbage collection service shall accrue, and no liens shall accumulate, until the service is commenced again at the request of the owner. If a customer requests reconnection of water service to the premises, garbage service shall be simultaneously commenced. (Ord. 2540 § 1, 2004; Ord. 1822 § 13, 1991; Ord. 1439, 1985).

7.08.100 Billing for collection service delinquent bills – Liens.

Bills for garbage and refuse collection services, as specified in the rate schedule in MMC 7.08.110, shall be sent to all customers on a monthly or bimonthly basis, using the addresses contained in the records of the city utility department. For customers also receiving bills for city water and sewer utilities, the billing statements shall be combined and processed pursuant to MMC 14.05.030. The owner of premises receiving the benefit of garbage and refuse collection services shall be responsible for the payment of all charges. In the event that such charges are not paid to the city within 30 days after mailing of the bills, they shall be considered delinquent. Delinquent bills may be collected by the city by use of one or more of the following cumulative remedies:

(1) All garbage and refuse service to the premises may be suspended. Such suspension shall not relieve the owner of the premises from paying the delinquent account or from accruing additional monthly charges during the period of suspension. Further, such suspension shall not relieve the owner of the premises from an obligation to comply with all provisions of this chapter, and an accumulation of garbage or refuse on the premises may result in an action by the city for abatement of a health hazard.

(2) A civil collection action may be instituted against the owner of the premises and/or the person or persons occupying the same during the period that the delinquent account arose. If the city obtains judgment against such parties, it shall also be entitled to judgment for court costs and reasonable attorney's fees expended in said litigation.

(3) The amount of a delinquent account shall constitute a lien against the property for which the garbage collection service was rendered. In order to enforce said lien, the city must file a notice of the same with the Snohomish County auditor within 90 days from the date on which the services were performed. Such notice must comply with RCW 35.21.140. The city may file a judicial action to foreclose said lien within a period of eight calendar months after the lien was filed. If the city obtains judgment on said lien, it shall also be entitled to judgment for court costs and reasonable attorney's fees incurred in said litigation. (Ord. 2540 § 1, 2004; Ord. 1849 § 4, 1991; Ord. 1140 § 6, 1980; Ord. 436 § 10, 1957).

7.08.110 Rate schedule.

The monthly rates for the collection of garbage and refuse to be charged by the city shall be according to the following schedule:

(1) Weekly pickup – Each dwelling unit:

$14.60 – for one mini-can – 20-gallon insert into 35-gallon cart

$18.10 – for one 35-gallon cart

$30.20 – for one 65-gallon cart

$42.30 – for one 96-gallon cart

(2) Monthly pickup – Each dwelling unit:

$8.80 – for one 35-gallon cart

(3) Extra pickup:

$4.90 for each additional can or excess refuse bag per pickup

(4) Low-income senior citizen rate:

$11.40 – for one 20- or 35-gallon cart

Larger cart or additional garbage at regular rates (see eligibility requirements in MMC 7.08.115)

(5) Business, schools, churches, etc.:

Same as dwelling unit rate on a per container basis

(6) Service more frequent:

Rate multiplied by number of the weekly pickups

(7) Containers (noncompacted):

One cubic yard – $81.50/month (or $20.38/pickup)

One and one-half cubic yards – $110.70/month (or $27.68/pickup)

Two cubic yards – $140.50/month (or $35.13/pickup)

Three cubic yards – $192.40/month (or $48.10/pickup)

Four cubic yards – $214.60/month (or $53.65/pickup)

Six cubic yards – $291.40/month (or $72.85/pickup)

Eight cubic yards – $377.90/month (or $94.48/pickup)

(8) Containers (compacted): (The term "compacted material" means any material which has been compressed or shredded by any mechanical device either before or after it is placed in the receptacle handled by the collector.)

Rates for compacted material shall be 50 percent greater than the rate for the same size container of uncompacted refuse.

(9) Container – Surplus garbage:

Charged at same rate as container assuming equivalent bulk and weight

(10) Container – Service more frequent:

Container rate multiplied by number of weekly pickups

(11) Container – Rollouts beyond 20 feet:

$12.15/month per container

(12) Container – Cleaning – If not maintained by user:

$30.35 per container per instance

(Ord. 2540 § 1, 2004; Ord. 2390 § 3, 2001; Ord. 2352 § 1, 2000; Ord. 2285 § 1, 1999; Ord. 1925 § 1, 1992; Ord. 1876 § 1, 1992; Ord. 1788 § 3, 1990; Ord. 1552 § 1, 1987; Ord. 1474 § 1, 1986; Ord. 1322 § 1, 1983; Ord. 1177, 1981; Ord. 1140 § 7, 1980; Ord. 1057, 1979; Ord. 928 § 8, 1977; Ord. 876 § 1, 1975; Ord. 728 § 3, 1971; Ord. 616 § 1, 1968; Ord. 563 §§ 2, 3, 1966; Ord. 438 § 1, 1957).

7.08.111 Yard waste rate schedule.

Each customer participating in the city's optional yard waste collection service, as provided for in MMC 7.08.033, shall be charged a monthly collection charge of $7.50 for the first container and $2.00 for each additional container. (Ord. 2540 § 1, 2004; Ord. 2390 § 4, 2001; Ord. 2352 § 1, 2000; Ord. 2285 § 2, 1999; Ord. 2078 § 2, 1996; Ord. 1854 § 2, 1991; Ord. 1826 § 1, 1991).

7.08.112 Commercial recyclable collection rates.

Commercial and industrial customers participating in the city's optional recycling collection service, as provided in MMC 7.08.032, shall be charged collection rates as follows:

64-gallon cart – $2.15 per pickup
90-gallon cart – $2.87 per pickup
1 yard container – $7.45 per pickup
2 yard container – $11.50 per pickup
3 yard container – $15.21 per pickup
4 yard container – $17.45 per pickup
6 yard container – $21.30 per pickup
8 yard container – $24.55 per pickup

(Ord. 2540 § 1, 2004; Ord. 2078 § 3, 1996; Ord. 1925 § 1, 1992; Ord. 1854 § 3, 1991).

7.08.113 Multi-family recyclable collection rates.

Commercial and industrial customers participating in the city's optional recycling collection service, as provided in MMC 7.08.032, shall be charged collection rates as follows:

64-gallon cart – $2.28 per pickup
90-gallon cart – $3.04 per pickup
1 yard container – $7.90 per pickup
2 yard container – $12.19 per pickup
3 yard container – $16.12 per pickup
4 yard container – $18.50 per pickup
6 yard container – $22.58 per pickup
8 yard container – $26.02 per pickup

(Ord. 2540 § 1, 2004; Ord. 1925 § 2, 1992).

7.08.115 Eligibility for senior citizen rate.

The occupant of a single-family dwelling unit or duplex in the city of Marysville shall be eligible for the senior citizen garbage and refuse collection rate under the following conditions:

(1) The dwelling unit must be occupied by the person claiming eligibility as his or her principal place of residence.

(2) The person claiming the rate must be the head of the household for the dwelling unit in question.

(3) The garbage account must be in the name of the person claiming eligibility.

(4) No person may claim a senior citizen garbage and refuse collection rate for more than one dwelling unit during the same period.

(5) The person claiming eligibility for the senior citizen rate must qualify in one of the following categories:

(a) Low-Income Senior Citizen. "Low-income senior citizen" means a person who is 62 years of age or older and whose total income, including that of his or her spouse or cotenant, does

not exceed the amount specified in RCW 84.36.381(5)(b), as now or hereafter amended.

(b) Low-Income Disabled Citizen. "Low-income disabled citizen" means:

(i) A person qualifying for special parking privileges under RCW 46.16.381(1)(a) through (f);

(ii) A blind person as defined in RCW 74.18.020; or

(iii) A disabled, handicapped or incapacitated person as defined under any other existing state or federal program and whose income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 70.164.020(4).

(6) Claims for low-income senior citizen or low-income disabled citizen garbage and refuse collection rates shall be made annually and filed on or before March 1st of each year. Claims shall be filed on forms prescribed and furnished by the city clerk. Said forms shall require the claimant to certify his or her eligibility under this chapter. The city clerk is authorized to require documentation of eligibility when necessary. (Ord. 2540 § 1, 2004; Ord. 1787 § 2, 1990; Ord. 1655, 1988; Ord. 1633 §§ 1, 2, 1988; Ord. 1417 §§ 1, 2, 1985; Ord. 1140 § 3, 1980).

7.08.120 Special services performed by city – Owner's cost.

In the event that city employees are authorized by the superintendent of the utility department to perform special extraordinary garbage or refuse collection services for a private party, using city time or equipment, said private party shall be charged, on the next billing cycle, in an amount equal to the prevailing hourly wage rate for the employees and/or equipment involved. Such charges shall be collected pursuant to the procedures specified in MMC 7.08.100. Authorization for such special or extraordinary services shall only be given for the purpose of abating a violation of this title or for other purposes which benefit the public interest. (Ord. 2540 § 1, 2004; Ord. 1140 § 9, 1980).

7.08.125 Waiver of garbage fees for new buildings under construction.

During construction of a new building a contractor may request connection to city utilities. Unless requested, however, city garbage collection for said premises shall not commence, and garbage fees shall not be charged, until the date of first occupancy of the building. (Ord. 2540 § 1, 2004; Ord. 1674 § 1, 1989).

7.08.130 Garbage disposal fund.

There is hereby established and created a garbage disposal fund. All money received by the city for the collection and disposal of garbage and refuse shall be placed in such fund and the expense of such garbage collection and disposal shall be paid therefrom. The city council may, from time to time, provide for additional revenues to be paid into such fund and may, subject to the provisions of RCW 35.27.510, from time to time transfer a portion of the net earnings into the current expense fund of the city. (Ord. 2540 § 1, 2004; Ord. 436 § 12, 1957).

7.08.150 Penalty for violations.

Any person or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not to exceed $100.00, or by imprisonment for not to exceed 30 days, or both. (Ord. 2540 § 1, 2004; Ord. 436 § 14, 1957).

Chapter 7.12

UNIFORM LITTER CONTROL CODE

Sections:
7.12.010 Adoption by reference.

7.12.010 Adoption by reference.

The following sections of the Washington State Litter Control Act, and any amendments to the same, are adopted by reference:

RCW
70.93.030 Definitions.
70.93.050 Enforcement by police officers – Arrest without warrant.
70.93.060 Littering prohibited – Penalties.
70.93.090 Litter receptacles.
70.93.100 Litter bags.
70.93.110 Responsibility for removal of litter.
70.93.230 Violations – Penalties.

(Ord. 1597 § 2, 1988).

Chapter 7.16

WASHINGTON CLEAN INDOOR AIR ACT

Sections:
7.16.010 Statutes incorporated by reference.

7.16.010 Statutes incorporated by reference.

The following sections of the Washington Clean Indoor Air Act are incorporated by reference:

RCW
70.160.010 Legislative intent.
70.160.020 Definitions.
70.160.030 Smoking in public places except designated smoking areas prohibited.
70.160.040 Designation of smoking areas in public places – Exceptions.
70.160.050 Owners, lessees to post signs prohibiting or permitting smoking.
70.160.060 Exception for private enclosed work places.
70.160.070 Intentional violations – Penalties.
70.160.080 Local regulations authorized.
70.160.100 Penalty paid to city.

(Ord. 1448 § 2, 1986).

Title 8

(Reserved)

Title 9

FIRE[1]

Chapters:

9.04 Fire Code
9.20 Fireworks
9.24 Emergency Medical Services

1. Trash burning, see MMC Title 7.
Fire retardant building provisions, see MMC Title 16.
Traffic control during fire, see MMC Title 11.
Volunteer fire department and personnel, see MMC Title 2.

Chapter 9.04

FIRE CODE

Sections:

9.04.010 Adoption by reference.
9.04.020 Establishment and duties of bureau of fire prevention.
9.04.030 Definitions.
9.04.040 Flammable or combustible liquid storage limits.
9.04.050 *Repealed.*
9.04.060 *Repealed.*
9.04.070 Additional amendments to International Fire Code.
9.04.071 Additional sections of International Fire Code adopted.
9.04.072 International Fire Code provision not adopted.
9.04.073 International Fire Code Section 503.2.3 amended – Access – Surfacing.
9.04.074 International Fire Code Section 503.2.4 amended – Access – Turning radius.
9.04.075 International Fire Code Section 503.2.5 amended – Access – Turn arounds.
9.04.076 International Fire Code Section 503.2.7 amended – Access – Gradients.
9.04.077 International Fire Code Section 508.3 amended.
9.04.078 International Fire Code Section 903.4.1 amended – Central stations.
9.04.079 International Fire Code Section 903.2.1 amended – Sprinkler systems – Group A occupancies.
9.04.080 International Fire Code Section 903.2.2 amended – Sprinkler systems-Group E occupancies.
9.04.081 International Fire Code Section 903.2.3 amended – Sprinkler systems – Group F occupancies.
9.04.082 *Repealed.*
9.04.083 International Fire Code Section 903.2.6 amended – Sprinkler systems – Group M and B occupancies.
9.04.084 International Fire Code Section 903.2.7 amended – Sprinkler systems – Group R occupancies.
9.04.085 International Fire Code Section 903.2.8 amended – Sprinkler systems – Group S occupancies.
9.04.086 International Fire Code Section 902 amended.
9.04.087 International Fire Code appendices adopted.
9.04.090 International Fire Code Section 903.2 amended – Where required.
9.04.095 Additional sections of International Fire Code adopted.
9.04.100 Penalties.

9.04.010 Adoption by reference.

Certain documents, copies of which are on file in the office of the clerk of the city of Marysville, entitled "International Fire Code, 2003 Edition," published by the International Code Council, with amendments as adopted by the Washington State Building Code Council are adopted as the fire code of the city of Marysville (hereinafter sometimes referred to as the "fire code") for the purpose of prescribing regulations for the safeguarding of life and property from the hazards of fire and explosion. Except as otherwise specifically amended herein, or by later ordinance, each and all of the regulations, provisions, penalties, conditions and terms of said code and standards are incorporated and made part of this chapter as if fully set forth herein. (Ord. 2532 § 1, 2004; Ord. 2378 § 1, 2001).

9.04.020 Establishment and duties of bureau of fire prevention.

(1) The International Fire Code shall be enforced by the bureau of fire prevention in the fire department of Marysville which is established and which shall be operated under the supervision of the chief of the fire department.

(2) The fire marshal in charge of the bureau of fire prevention shall be the chief of the fire department of Marysville, or any qualified person designated by the chief.

(3) The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. (Ord. 2532 § 2, 2004; Ord. 850 § 2, 1975).

9.04.030 Definitions.

(1) Wherever the word "jurisdiction" is used in the International Fire Code, it means the city of Marysville.

(2) "Commercial occupancy" means groups A, B, I, E, H, F, LC (except adult family homes as defined in Chapter 70.128 RCW), M, R-1, R-2, R-4 and S occupancies as defined in Section 202 – Occupancy Classifications of the International Fire Code, 2003 Edition. (Ord. 2532 § 3, 2004; Ord. 2378 § 2, 2001; Ord. 850 § 3, 1975).

9.04.040 Flammable or combustible liquid storage limits.

The storage of Class I, II and III-A liquids in aboveground tanks exceeding 26,000 gallons individual or 78,000 gallons aggregate capacity is prohibited within the corporate limits of the city of Marysville. Storage shall be limited to horizontal-tanks only. This language shall replace the language of International Fire Code Sections 3404.2.9.5.1 and 3406.2.4.4. (Ord. 2532 § 4, 2004; Ord. 2378 § 3, 2001; Ord. 1373 § 2, 1984; Ord. 1082 § 2, 1979; Ord. 850 § 4, 1975).

9.04.050 Liquefied petroleum gas storage limits.

Repealed by Ord. 2378. (Ord. 1947 § 2, 1993; Ord. 1082 § 3, 1979; Ord. 850 § 5, 1975).

9.04.060 Explosives and blasting agent storage limits.

Repealed by Ord. 2532. (Ord. 2378 § 5, 2001; Ord. 1947 § 3, 1993; Ord. 1082 § 4, 1979; Ord. 850 § 6, 1975).

9.04.070 Additional amendments to International Fire Code.

The additional amendments to the fire code in MMC 9.04.071 through 9.04.087 are enacted. (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001).

9.04.071 Additional sections of International Fire Code adopted.

Sections 503.1 shall be adopted as written, sections 503.1.1, 503.1.2, 503.1.3, 503.2, 503.3, and 503.4, being sections of the International Fire Code (2003 Edition) not adopted by the Washington State Building Code Council, are hereby adopted and enacted in the city of Marysville. (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(1)).

9.04.072 International Fire Code provision not adopted.

Section 508.5.1 is not adopted. Fire hydrant locations to be installed per MMC 14.03.050. (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070 (2)).

9.04.073 International Fire Code Section 503.2.3 amended – Access – Surfacing.

Section 503.2.3 adopted by MMC 9.04.071 is further amended to add an additional sentence reading as follows: "The surface shall be entirely composed of gravel, crushed rock, asphalt or concrete." (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(3)).

9.04.074 International Fire Code Section 503.2.4 amended – Access – Turning radius.

Section 503.2.4 adopted by MMC 9.04.071 is further amended to add an additional sentence reading as follows: "A turning radius will be approved only if it is in accordance with the Engineering Design and Development Standards for the City of Marysville." (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(4)).

9.04.075 International Fire Code Section 503.2.5 amended – Access – Turn arounds.

Section 503.2.5 adopted by MMC 9.04.071 is further amended to add an additional two sentences reading as follows: "Turn arounds shall be a minimum eighty (80) foot diameter cul-de-sac with no obstructions within the cul-de-sac. An approved hammerhead turn around may be used if there are no alternatives, and it is approved by the Fire Chief." (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070 (5)).

9.04.076 International Fire Code Section 503.2.7 amended – Access – Gradients.

Section 503.2.7 adopted by MMC 9.04.071 is further amended to add an additional sentence reading as follows: "A gradient will be approved only if it is in accordance with the Engineering Design and Development Standards for the City of Marysville." (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(6)).

9.04.077 International Fire Code Section 508.3 amended.

(1) Replace "by an approved method" with "per Appendix B of the International Fire Code."

(2) Exceptions. Section 508.3 is amended to add two exceptions reading as follows:

EXCEPTIONS:

(1) Subdivisions and short subdivisions in which all lots have a lot area of 43,560 square feet (one acre) or more in size;

(2) Structures where under the International Building Code the occupancy is classified as group U occupancies (agricultural

buildings, private garages, carports and sheds) that are restricted to private residential use only. Riding arenas or other agricultural structures used or accessed by the general public shall not fall within this exception.

(Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(7)).

9.04.078 International Fire Code Section 903.4.1 amended – Central stations.

Section 903.4.1 is amended to delete the language reading "an approved central station, remote supervising station or proprietary supervising stations as defined in NFPA 72 or, when approved by the fire code official, shall sound an audible signal at a constantly attended location" and to substitute and enact language reading "a U.L. Listed Central Station." (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(8)).

9.04.079 International Fire Code Section 903.2.1 amended – Sprinkler systems – Group A occupancies.

Section 903.2.1.1 Item 1. Replace 12,000 with 10,000.

Section 903.2.1.3 Item 1. Replace 12,000 with 10,000.

Section 903.2.1.4 Item 1. Replace 12,000 with 10,000. (Ord. 2532 § 7, 2004; Ord. 2377 § 2, 2001).

9.04.080 International Fire Code Section 903.2.2 amended – Sprinkler systems – Group E occupancies.

Section 903.2.2 Item 1. Replace 20,000 with 10,000 (Ord. 2532 § 7, 2004; Ord. 2377 § 3, 2001).

9.04.081 International Fire Code Section 903.2.3 amended – Sprinkler systems – Group F occupancies.

Section 903.2.3 Item 1. Replace 12,000 with 10,000.

Section 903.2.3 Item 3. Replace 24,000 with 10,000. (Ord. 2532 § 7, 2004; Ord. 2377 § 4, 2001).

9.04.082 UFC Section 100.3.2.6.1 amended – Fire extinguishing systems – Group H occupancies.

Repealed by Ord. 2532. (Ord. 2377 § 5, 2001).

9.04.083 International Fire Code Section 903.2.6 amended – Sprinkler systems – Group M and B occupancies.

Section 903.2.6 Item 1. Add B after M and change 12,000 to 10,000

Section 903.2.6 Item 2. Add B after M.

Section 903.2.6 Item 3. Add B after M and change 12,000 to 10,000. (Ord. 2532 § 7, 2004; Ord. 2377 § 6, 2001).

9.04.084 International Fire Code Section 903.2.7 amended – Sprinkler systems – Group R occupancies.

Amend Section 903.2.7 to add: "Townhouses constructed in a group of five or more attached units shall be protected with an automatic sprinkler system per 903.3.1.3." (Ord. 2532 § 7, 2004; Ord. 2377 § 7, 2001).

9.04.085 International Fire Code Section 903.2.8 amended – Sprinkler systems – Group S occupancies.

Amend Section 903.2.8 by deleting S-1 and replacing it with "S."

Section 903.2.8 Item 1. Replace 12,000 with 10,000.

Section 903.2.8 Item 3. Replace 24,000 with 10,000.

Section 903.2.8.1 Item 2. Replace 12,000 with 10,000.

Section 903.2.8.1 add item 4: "Repair garages where the use of open flame or welding is conducted with a fire area exceeding 3,000 square feet." (Ord. 2532 § 7, 2004; Ord. 2377 § 8, 2001).

9.04.086 International Fire Code Section 902 amended.

The definition of fire area is amended by adding: "For Section 903, the definition of FIRE AREA shall be as follows: The aggregate floor area enclosed and bounded by exterior walls of a building." (Ord. 2532 § 7, 2004; Ord. 2377 § 9, 2001).

9.04.087 International Fire Code appendices adopted.

If not elsewhere enacted the following appendices of the International Fire Code are hereby adopted and enacted by this subsection and reference: B. (Ord. 2532 § 7, 2004; Ord. 2378 § 6, 2001. Formerly 9.04.070(9)).

9.04.090 International Fire Code Section 903.2 amended – Where required.

Amend Section 903.2 by adding items:

Existing buildings altered such that the total fire area exceeds 10,000 square feet shall be provided with an automatic sprinkler system.

An automatic sprinkler system shall be provided throughout buildings where the combined area of all fire areas on all floors, including any mezzanines, exceeds 10,000 square feet.

(Ord. 2532 § 8, 2003).

9.04.095 Additional sections of International Fire Code adopted.

New Section 401.3.4, Excessive False Alarms, Penalty Imposed.

No more than three false alarms from any location shall be permitted within any calendar year. The owner or operator of any location from which more than three false alarms are sent within any calendar year shall be subject to the imposition of a criminal penalty pursuant to MMC 9.04.100.

(Ord. 2532 § 9, 2003).

9.04.100 Penalties.

(1) Any person who violates any of the provisions of this code as adopted or fails to comply therewith, or who violates or fails to comply with any order made under this code, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the chief or by a court of competent jurisdiction within the time fixed in this chapter is severally, for each and every such violation and noncompliance respectively, guilty of a misdemeanor, punishable by a fine of not more than $300.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each 10 days that prohibited conditions are maintained constitutes a separate offense.

(2) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. 2532 § 10, 2004; Ord. 850 § 10, 1975).

Chapter 9.20

FIREWORKS

Sections:

9.20.010 State statutes adopted.
9.20.015 Additional definitions.
9.20.020 Date and time limits for sale or discharge of consumer fireworks.
9.20.070 Permit procedure.
9.20.080 Action by city council.
9.20.090 Issuance of – Nontransferable.
9.20.110 Operation of fireworks stands.
9.20.120 Temporary fireworks stand specifications.
9.20.125 Enforcement – Revocation of permit.
9.20.130 Penalties for violations.

9.20.010 State statutes adopted.

The following sections of the State Fireworks Law (Chapter 70.77 RCW) are adopted by reference, including any amendments to the same which may hereafter be enacted by the state of Washington:

RCW

70.77.126 Definition of “fireworks.”
70.77.131 Definition of “display fireworks.”
70.77.136 Definition of “consumer fireworks.”
70.77.141 Definition of “agricultural and wild1ife fireworks.”
70.77.146 Definition of “special effects.”
70.77.160 Definition of “public display of fireworks.”
70.77.165 Definition of “fire nuisance.”
70.77.180 Definition of “permit.”
70.77.190 Definition of “person.”
70.77.205 Definition of “manufacturer.”
70.77.210 Definition of “wholesaler.”
70.77.215 Definition of “retailer.”
70.77.230 Definition of “pyrotechnic operator.”
70.77.255 Acts prohibited without a license.
70.77.285 Public display permit – Bond.
70.77.290 Public display permit.
70.77.295 Public display permit – Amount of bond.
70.77.311 Exemptions from licensing.
70.77.335 License authorizes activities of salesmen, employees.
70.77.405 Authorized sales of toy caps, tricks, novelties.
70.77.410 Public displays not to be hazardous.
70.77.415 Supervision of public displays.
70.77.420 Storage permit required.
70.77.425 Approved storage facilities required.

70.77.430 Sale of stock after revocation or expiration of license.
70.77.450 Examination, inspection of books and premises.
70.77.480 Prohibited transfers of fireworks.
70.77.485 Unlawful possession.
70.77.488 Reckless discharge or use of fireworks.
70.77.510 Sales or transfers of display fireworks.
70.77.515 Sales or transfers of consumer fireworks.
70.77.520 Fire nuisance where fireworks kept – Prohibited.
70.77.535 Special fireworks for entertainment media.
70.77.545 Violation a separate, continuing offense.
70.77.570 Certain rockets not to be sold as common fireworks.
70.77.580 Posting by retailers of lists of allowed fireworks.

(Ord. 2409 § 1, 2002; Ord. 1942 § 1, 1993; Ord. 1778 § 1, 1990; Ord. 1376 § 2, 1984).

9.20.015 Additional definitions.

The following additional definitions shall apply in this chapter:

(1) "Articles pyrotechnic" means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use which meet the weight limits for consumer fireworks but which are not labeled as such and which are classified as UNO 431 or UNO 432 by the United States Department of Transportation at CFR Section 172.101 as of the effective date of this definition.

(2) "Permittee" means any person issued a fireworks permit in conformance with this chapter. (Ord. 2409 § 2, 2002).

9.20.020 Date and time limits for sale or discharge of consumer fireworks.

No fireworks shall be sold or discharged within the city except as follows:

(1) The sale of consumer fireworks shall be allowed from 12:00 noon to 11:00 p.m. on June 28th and from 9:00 a.m. to 11:00 p.m. on June 29th through July 4th.

(2) Consumer fireworks may be discharged July 4th only from 9:00 a.m. to 11:00 p.m. and December 31st from 9:00 a.m. to 2:00 a.m. on January 1st. (Ord. 2529 § 1, 2004; Ord. 2409 § 3, 2002; Ord. 2031 § 1, 1995; Ord. 1942 § 2, 1993).

9.20.070 Permit procedure.

Any adult person, firm, partnership, corporation or association may apply for a fireworks permit; provided, that the applicant must hold a current business license issued by the city, and must be, or be sponsored by, a person or entity which has a permanent address within the city limits. The application shall be in writing and shall be filed with the city clerk, at least 30 days in advance of the proposed sale of fireworks. The application shall include the following:

(1) Proof that the applicant has been issued a fireworks license or permit by the Chief of the Washington State Patrol acting through the Director of Fire Protection;

(2) A description of the proposed location of the fireworks;

(3) Proof that the applicant has an insurance policy with bodily injury liability limits of $50,000/$1,000,000 for each person and occurrence and $50,000 for property damage liability for each occurrence. The city shall be named as an additional insured on the policy;

(4) An annual license fee of $50.00;

(5) Subject to MMC 9.20.080, such permit shall be issued if the application meets the requirements of Chapter 70.77 RCW and all ordinances of the city of Marysville within the earlier of 30 days after the receipt of the application or by June 10th of the calendar year. (Ord. 2409 § 4, 2002; Ord. 2031 § 2, 1995; Ord. 1592, 1987; Ord. 1241 § 2, 1982; Ord. 1235 § 3, 1982).

9.20.080 Action by city council.

Upon seven days' advance written notice to the applicant, the city council shall hold a public meeting on the issuance of a fireworks permit. The city council shall have power, in its discretion, to grant or deny the application, subject to reasonable conditions, if any, as it shall prescribe. No more than eight fireworks stands shall be permitted within the city limits. The decision of the city council with respect to an application shall be final. (Ord. 1241 § 3, 1982; Ord. 1235 § 4, 1982).

9.20.090 Issuance of – Nontransferable.

Upon approval by the city council of a fireworks permit, the city clerk shall issue the same to the applicant who thereafter shall be the permittee. The permit shall be for a term of one year. No permit shall be transferable without express approval by the city council. (Ord. 2409 § 5, 2002; Ord. 1235 § 5, 1982).

9.20.110 Operation of fireworks stands.

The party holding the fireworks permit shall operate the fireworks stand exclusively by and through its employees, members or designees. At least one adult person (age 18 or over) shall be present at all times a fireworks stand is open to the public. No person under 16 years of age shall be allowed to sell fireworks or remain within a fireworks stand when it is open to the public. (Ord. 1778 § 2, 1990; Ord. 1241 § 4, 1982; Ord. 1235 § 6, 1982; Ord. 479 § 11, 1962).

9.20.120 Temporary fireworks stand specifications.

All retail sales of consumer fireworks shall be permitted only from a retailer at a retail fireworks stand or outlet that is temporary, and the sale from any other building or structure is prohibited.

A retail fireworks stand shall be subject to the following provisions, unless preempted by state-wide standards, in which event the state-wide standards shall apply:

(1) No retail fireworks stand shall be located within 25 feet of any other building, nor within 50 feet of any gasoline station.

(2) Retail fireworks stands shall be temporary and need not comply with the provisions of the building code of the city; provided, however, that all stands shall be erected under the supervision of the fire chief, as defined elsewhere in this code, who shall require that the stand be constructed in a manner which shall insure the safety of attendants and patrons, shall be wired according to state or national electrical code, and shall satisfy any state-wide standards issued by the State Director of Fire Protection. At least two approved fire extinguishers with 2.5 gallons apiece, or equivalent, shall be maintained at each stand at all times.

(3) Each stand must have two exits.

(4) No retail fireworks stand shall be located closer than 600 feet to another fireworks stand.

(5) All weeds and combustible material shall be cleared from the location of the stand, including a distance of at least 20 feet surrounding the stand.

(6) “No Smoking” signs shall be prominently displayed on the fireworks stand.

(7) Each retail fireworks stand shall be operated by adults only. No fireworks shall be left unattended in a stand.

(8) All unsold stock and accompanying litter shall be removed from the location by 12:00 noon on the sixth day of July of each year.

(9) The retail fireworks stand shall be disassembled and removed from the location by 12:00 noon on the sixth day of July of each year. (Ord. 2409 § 6, 2002; Ord. 1778 § 3, 1990; Ord. 479 § 12, 1962).

9.20.125 Enforcement – Revocation of permit.

The city fire marshal shall be authorized to enter and inspect all fireworks stands to assure compliance with the provisions of this chapter and to protect the public health, safety and welfare. The fire marshal is authorized to temporarily revoke any permit, for cause. Any party aggrieved by such revocation shall have the right to appeal the same to the city council within 10 days thereafter. The decision of the city council shall be final. (Ord. 1235 § 7, 1982).

9.20.130 Penalties for violations.

Any person violating this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding $300.00, or by imprisonment in the city jail for a period not exceeding 90 days, or by both such fine and imprisonment. Further, the license shall be revoked. (Ord. 479 § 13, 1962).

Chapter 9.24

EMERGENCY MEDICAL SERVICES

Sections:

9.24.010 Emergency medical services – Purpose.
9.24.020 Definitions.
9.24.030 Administrative responsibility.
9.24.040 Mutual aid agreements.

9.24.010 Emergency medical services – Purpose.

The availability of emergency medical services providing prehospital treatment for victims of motor vehicle accidents, suspected coronary illnesses, and other acute illness or trauma, and the transportation of such victims to the nearest hospital or medical facility, is in the interest of public health, safety and welfare. To the extent that such services are not immediately available or adequately provided by private enterprise or other public entity, the same should be furnished by the city. (Ord. 1879 § 9, 1992).

9.24.020 Definitions.

(1) "Emergency medical service" means medical treatment and care that may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility.

(2) "Emergency medical technician" means a person who is authorized by the Washington State Department of Health to render emergency medical care pursuant to RCW 18.73.081 as now or hereafter amended. (Ord. 1879 § 10, 1992).

9.24.030 Administrative responsibility.

The fire chief of the Marysville fire district shall have the administrative responsibility for emergency medical services for the city and shall supervise the same subject to the authority of the Marysville fire board. (Ord. 1879 § 11, 1992).

9.24.040 Mutual aid agreements.

Upon approval by the mayor and city council of a mutual aid agreement with any other municipal jurisdiction, the Marysville fire district shall render emergency medical services to all persons within any such jurisdiction on the terms and conditions specified therein. (Ord. 1879 § 12, 1992).

Title 10

ANIMALS

Chapters:

10.04 Animal Control

Chapter 10.04

ANIMAL CONTROL

Sections:

10.04.010 Title.
10.04.020 Definitions.
10.04.030 Purpose.
10.04.040 Livestock not to run at large.
10.04.050 Hitching of horses prohibited in business districts.
10.04.060 Driving or riding animals so as to endanger persons or property.
10.04.070 Livestock – Impounding authorized.
10.04.080 Notice of impoundment.
10.04.090 Livestock – Redemption – Fees – Procedure for sale of unredeemed animals – Profits of sale held for owner.
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10.04.010 Title.

The ordinance codified in this chapter may be cited as "the animal control ordinance." (Ord. 2404 § 1, 2002; Ord. 2013 § 1, 1995).

10.04.020 Definitions.

As used in this chapter, the terms defined in this section shall have the defined meanings unless the context requires otherwise; words in the present tense include the future; the singular includes the plural; plural usage includes the singular; "shall" means mandatory, not directory, and the masculine gender includes the feminine.

(1) "Adult dog or cat" means any dog or cat over the age of six months.

(2) "Animal" means any live vertebrate creature, reptile, amphibian, or bird, except man.

(3) "Animal at large" means any animal off the property of its owner, unless restrained by leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a responsible person, whether or not the owner of such animal, or which enters upon the property of another person without authorization of that person.

(4) "City" means city of Marysville.

(5) "Euthanasia" means the putting to death of an animal in a humane manner.

(6) "Exotic, wild or dangerous animal" means any member of the animal kingdom which is not commonly domesticated or which is not common to North America, or which, irrespective of geo-

graphic origin, is of a wild or predatory nature, or any domesticated animal which, because of its size, vicious nature or other similar characteristics would constitute a danger to human life or property if not kept, maintained or confined in a safe and secure manner. Incorporated by reference here are the State Game Department regulations, principally the following: WAC 232-12-015, 232-12-030, 232-12-040, 232-12-050, and 232-12-060.

(7) "Livestock" includes horses, mules, jackasses, cattle, sheep, llamas, goats, and swine.

(8) "Owner" means any person or legal entity having a possessory property right in an animal or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by him.

(9) "Neutered" or "spayed" means medically determined to be incapable of reproduction or when the physical condition of an animal is certified by a licensed veterinarian to be such as would prohibit performance of such medical procedure to render it nonreproductive.

(10) "Vicious dog" means any dog which scratches, bites or otherwise harms or injures humans or animals. (Ord. 2404 § 1, 2002; Ord. 2013 § 2, 1995).

10.04.030 Purpose.

It is the public policy of the city to encourage, secure and enforce those animal control measures deemed desirable and necessary for the protection of human health and safety, and to the greatest degree practicable to prevent injury to property and cruelty to animal life. To this end, it is the purpose of this chapter to provide a means of licensing dogs or cats, impounding animals, and controlling animal behavior so that it shall not constitute a nuisance and to prevent or curtail cruelty to animals. (Ord. 2404 § 1, 2002; Ord. 2013 § 3, 1995).

10.04.040 Livestock not to run at large.

No horse, sheep, goat, swine, ass, mule, jennet, colt or filly, fowl and no cattle of any kind, shall be allowed to run at large, during any hour of the day or night upon any unenclosed land, public or private, within the city limits. (Ord. 2404 § 1, 2002; Ord. 2013 § 4, 1995).

10.04.050 Hitching of horses prohibited in business districts.

It is unlawful for any person to leave a horse tied, fastened or hitched to any object in a business or commercial zone of the city. (Ord. 2404 § 1, 2002; Ord. 2013 § 5, 1995).

10.04.060 Driving or riding animals so as to endanger persons or property.

It is unlawful for any person to drive, herd or ride a horse or other livestock in the city in such a manner as to endanger or to be likely to endanger any person or property, or to drive or ride a horse or other livestock upon any sidewalk in the city; provided, that this section shall not prohibit any person from driving or herding livestock in a safe manner consistent with reasonable farming or ranching practices. (Ord. 2404 § 1, 2002; Ord. 2013 § 6, 1995).

10.04.070 Livestock – Impounding authorized.

Any animal found in violation of MMC 10.04.040 through 10.04.060 within the city limits may be impounded by the animal control officer or any police officer, and kept at a city facility or at some other facility suitably equipped for the care and confinement of the animal. (Ord. 2404 § 1, 2002; Ord. 2013 § 7, 1995).

10.04.080 Notice of impoundment.

The animal control officer or police officer impounding any animal pursuant to MMC 10.04.070 shall give the owner thereof written notice of the impoundment as soon as possible, but not more than three days after impoundment. If the owner is not known, such notice shall be given by posting the same in a conspicuous place at the entrance of City Hall and the city police department, which notice shall state that the animal or animals described therein have been taken up and impounded and will be sold at public auction to the highest bidder for cash at the time therein named, which time shall be not less than 10 days from the time of service or posting of the notice. The proceeds of the sale shall be applied to pay legal fees, costs and expenses incurred by the city in impounding, keeping and selling the animal. (Ord. 2404 § 1, 2002; Ord. 2013 § 8, 1995).

10.04.090 Livestock – Redemption – Fees – Procedure for sale of unredeemed animals – Profits of sale held for owner.

(1) If at any time before such sale the owner of the animal or animals so taken up or impounded pursuant to MMC 10.04.070 claims the same, the owner shall be entitled to possession thereof by paying to the city the following sums:

(a) Transportation/impoundment fee of $100.00. The fee shall progressively double for each impoundment of the same animal during any one-year period;

(b) Actual costs per day for room and board during the period of impoundment;

(c) Any and all delinquent court fines imposed with respect to the animal.

(2) At the time named in said notice, if such animal or animals be not prior thereto claimed and redeemed, the poundkeeper shall sell such animal or animals at public auction to the highest bidder for cash and shall immediately pay the proceeds of such sale into the city treasury, and give a receipt therefor to the purchaser. The city may contract for auctioneer services and pay expenses thereof from the proceeds from the sale of said animals.

(3) If the owner or owners of any animal or animals sold under the provisions of this chapter shall at any time within one year from the date of such sale make satisfactory proof of ownership, he or they shall be entitled to receive the net proceeds or such sale so paid into the city treasury, after deducting all legal charges, administrative costs and expenses. If such funds have not been claimed after one year, such proceeds shall be deemed forfeited and deposited in the general fund. (Ord. 2404 § 1, 2002; Ord. 2013 § 9, 1995).

10.04.100 Licensing required.

It shall be a civil infraction for any person, firm or corporation to own, possess, harbor or otherwise be the custodian of any dog or cat over the age of three months within the city unless the person, firm or corporation has first procured a license therefor as provided in this chapter. The license tag shall be attached to the animal's collar so that the animal may be returned to the owner. The animal owner will be responsible for any costs regarding a licensed but not tagged animal.

The penalties for failing to license a dog or cat pursuant to this section are $150.00 for each offense in the 2005 calendar year and $250.00 for each offense after December 31, 2005. (Ord. 2600 § 1, 2005; Ord. 2404 § 1, 2002; Ord. 2013 § 10, 1995).

10.04.110 Issuance of licenses and tags – Transferability – Attaching tag.

It shall be the duty of the city clerk or his/her appointee to issue licenses to persons applying therefor, upon payment of the license fee as provided in this chapter. Upon the issuance of a license, a metal tag, with number corresponding to the number of the application, shall be furnished the applicant, who shall cause the same to be attached or affixed to the dog or cat licensed. Animal tags shall not be transferable from one animal to another. (Ord. 2404 § 1, 2002; Ord. 2013 § 11, 1995).

10.04.120 License fees.

The citizens residing within the city limits of Marysville shall pay the following fees for pet licenses under this chapter:

Unaltered – not spayed or neutered or implanted with a microchip – dogs or cats	$25.00 per year; seniors age 60 and older, $15.00 per year. No lifetime license.
Implanted with a microchip	$10.00 per year
Neutered or spayed dogs or cats	Free and a lifetime license
Replacement of metal tags	$5.00

Documentation from a veterinarian or other sufficient medical proof must be provided when licensing a neutered or spayed dog or cat. The city council may revise any or all license fees by resolution. (Ord. 2600 § 1, 2005; Ord. 2404 § 1, 2002; Ord. 2013 § 12, 1995).

10.04.130 Term of renewal of licenses.

All licenses required under this chapter, except the lifetime license for neutered dogs or cats, shall expire on December 31st of each year. Annual license fees shall be due and payable within 30 days after acquisition of a dog or cat and within 45 days after January 1st of each year. A penalty charge of $5.00 shall be added to any license fee which is delinquent. (Ord. 2404 § 1, 2002; Ord. 2013 § 13, 1995).

10.04.140 Dog and cat license exemptions.

The licensing provisions of this section shall not apply to dogs or cats in the custody of a veterinarian, or animal shelter or animal rescuer, or whose owners are nonresidents temporarily within the city for a period not exceeding 30 days. Also, when a blind person, physically disabled or hearing impaired person requests that no fee be charged to license his/her guide dog, or service dog, no fee shall be charged. (Ord. 2404 § 1, 2002; Ord. 2013 § 14, 1995).

10.04.150 Dogs and cats – Impoundment – Redemption – Fees.

(1) The animal control officer of the city may impound dogs and cats which fall in one or more of the following categories:

(a) Those dogs or cats which are not licensed pursuant to this chapter;

(b) Those dogs or cats which do not exhibit the identification tag required by this chapter;

(c) Stray animals as defined by this chapter;

(d) Biting dogs or cats as defined by this chapter;

(e) Vicious dogs as defined by this chapter;

(f) Dogs or cats in heat which are running at large;

(g) Noisy dogs and cats as defined by this chapter;

(h) Trespassing dogs and cats as defined by this chapter;

(i) Dogs or cats running in packs;

(j) Chasing or intimidating dogs or cats as defined in this chapter;

(k) Dogs or cats habitually running at large in violation of this chapter;

(l) Dogs and cats which are declared public nuisances but which have not been abated pursuant to this notice;

(m) Dogs and cats which are voluntarily surrendered to the animal control officer by any person who purports to be the owner of the same, or by any person who declares that the animals are stray animals as defined by this chapter.

(2) The animal control officer shall use his best efforts to notify the owner of the animal impounded pursuant to this section. The owner shall be responsible for paying the financial obligations below:

(a) The impound recovery fee assessed to the city by the Everett animal shelter or other applicable agency, if the owner has not already reimbursed the city for said fee; and

(b) The sum equal to the current rate charged the city by the applicable agency for room and board during the period of impoundment; and

(c) The appropriate license fee if the animal has not been previously licensed; and

(d) Any and all delinquent court fines with respect to the animal.

If an animal is sold pursuant to this chapter, the net proceeds from the sale shall offset the accrued obligation of the animal's owner with the exception of delinquent court fines. (Ord. 2600 § 1, 2005; Ord. 2404 § 1, 2002; Ord. 2013 § 15, 1995).

10.04.160 Destruction and sale of animals.

The animal control officer or other properly certified person shall have the authority to sell or destroy, by humane means, all animals given to the city or impounded pursuant to this chapter, when such animals have not been redeemed by their owners in the following time periods:

(1) Immediately upon determining that it would be humane to destroy an injured or diseased animal and the animal is unlicensed or the owner cannot be located. Determination of whether the animal will be destroyed will be made by a veterinarian, animal control officer or police officer;

(2) Twenty-four hours after an owner voluntarily surrenders its animal to the city;

(3) Four working days after an animal has been impounded pursuant to this chapter, without the consent of the owner;

(4) Ten days for licensed or animals with identification tags;

(5) Ten days after impounding a dog or cat pursuant to this chapter. (Ord. 2404 § 1, 2002; Ord. 2013 § 16, 1995).

10.04.170 Proof of rabies inoculation.

In the event that the chief of police or his designee deems it necessary for the health, safety and welfare of the city residents, no license hereunder shall be granted unless the applicant shall have presented to the city or its appointee a certificate from a licensed veterinarian to the effect that the animal has been inoculated against rabies within the year preceding application for license. (Ord. 2404 § 1, 2002; Ord. 2013 § 17, 1995).

10.04.180 Stray animals.

Any animal shall be defined as a "stray animal" and is declared to be a public nuisance subject to impoundment if it is running at large, is not licensed, has no identification tag, and has no apparent home where it is cared for on a regular basis. (Ord. 2404 § 1, 2002; Ord. 2013 § 18, 1995).

10.04.190 Confinement and redemption of biting dogs or cats.

(1) It is unlawful for the owner or owners of any dog or cat known to have bitten or scratched any person or persons or other animal or animals, to harbor or keep such dog or cat without permitting an examination or inspection of such dog or cat after due demand therefor by the chief of police or his designee. If, after such inspection or examination, good cause appears to be that such animal is suffering or has been exposed to rabies, such animal may be impounded and quarantined apart from other animals for a 10-day period from and after the date of seizure.

(2) Any dog or cat impounded under this section may be redeemed at the expiration of such period or prior thereto, upon the determination of the county health department that it is free from such disease, and upon the payment to the

impounding authority of the maintenance charge for each day of confinement, as hereinbefore set forth. (Ord. 2404 § 1, 2002; Ord. 2013 § 19, 1995).

10.04.200 In-heat dogs or cats at large prohibited.

It is unlawful for the owner or custodian of any female dog or cat to allow said dog or cat to be at large during the regular heat period, and any such dog or cat running at large during such period is a nuisance and may be impounded as such. (Ord. 2404 § 1, 2002; Ord. 2013 § 20, 1995).

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10.04.210 Trespassing dogs and cats prohibited – Requirement to remove fecal matter.

(1) It is a civil infraction to suffer or permit any dog or cat to trespass on private or public property so as to damage, destroy or befoul any property or thing of value.

(2) It is a civil infraction to fail to remove fecal matter deposited by an animal on the property of another before the owner and/or said animal leave the immediate area in which the fecal matter was deposited.

(3) It is a civil infraction for a person to fail to have in his or her possession the equipment necessary to remove fecal matter deposited by an animal when on public property or a public right-of-way. (Ord. 2404 § 1, 2002; Ord. 2013 § 21, 1995).

10.04.220 Noisy dogs and cats prohibited.

(1) No person may allow an animal to unreasonably disturb persons by habitually barking, howling, yelping, whining, or making other oral noises.

(2) A violation of this section is established if the person disturbed is an individual residing within 300 feet (exclusive of public right-of-way) of the place where the animal is harbored and this is confirmed by an animal control officer or police officer. (Ord. 2404 § 1, 2002; Ord. 2013 § 22, 1995).

10.04.230 Chasing and intimidating dogs prohibited.

It is unlawful for any person, firm or corporation which owns, possesses, harbors, or has control or charge of any dog which is known or in the exercise of reasonable care should be known to chase, run after or jump at vehicles or bikes using public streets, alleys and sidewalks, or which habitually snaps, growls, jumps at or upon or otherwise threatens persons lawfully using public streets, alleys or sidewalks, to allow the same to run at large and not under restraint. (Ord. 2404 § 1, 2002; Ord. 2013 § 23, 1995).

10.04.240 Commission for officers enforcing.

Appointees of the city charged with the duty of controlling animals as provided by this chapter shall have reserve police officers' commissions. (Ord. 2404 § 1, 2002; Ord. 2013 § 24, 1995).

10.04.250 Animal control officer appointed.

The animal control officer of the city, in his capacity as a member of the Marysville police department, is appointed and designated as the pound keeper. The position shall be subject to the supervision of the chief of police or his designee. (Ord. 2404 § 1, 2002; Ord. 2013 § 25, 1995).

10.04.260 Animal control shelter.

The city may maintain and operate, or contract to maintain and operate, an animal control shelter which shall be used as the public pound for the livestock referred to in this chapter. (Ord. 2404 § 1, 2002; Ord. 2013 § 26, 1995).

10.04.270 Duties of animal control officer.

The animal control officer, or other persons in charge of the pound, shall securely keep the pound and properly care for all animals that may be delivered into his custody until the same shall be released or sold as provided by this chapter. Upon receipt of any animal, he shall forthwith keep a report with the name of the person delivering the same to him, the day and hour of its receipt and a description to a reasonable certainty of the animal or animals and the name of the owner or owners, if known; he shall also report the release of all animals under his charge, showing the name of the owner, to whom delivered, together with the amount realized on such release. The Marysville police department shall keep a correct record of all matters above described and the same shall be preserved as one of the records of the office and shall be open to public inspection. This section shall not be deemed to prohibit the city from contracting for any of the services necessitated by this chapter. (Ord. 2404 § 1, 2002; Ord. 2013 § 27, 1995).

10.04.280 Obstructing process of impoundment – Penalty.

It is a civil infraction for any person to prevent or hinder or to attempt to prevent or hinder the impounding of any animal found to violate the provisions of this chapter, or by force or otherwise remove or attempt to remove any animal from the public pound without the authority of the animal control officer, or other person in charge of the pound, or to aid in any attempt to remove any animal or animals from the pound. (Ord. 2404 § 1, 2002; Ord. 2013 § 28, 1995).

10.04.290 Entering private property to take possession of animal.

The animal control officer may enter the private unenclosed private property of another with or without warrant, when in hot pursuit to take possession of any animal observed in violation of this chapter. (Ord. 2404 § 1, 2002; Ord. 2013 § 29, 1995).

10.04.300 Leash required.

It is a civil infraction for the owner or custodian of any dog to cause, permit or allow such dog to roam, run, stray, or to be away from the premises of such owner or custodian and to be on any public place, or on any public property, or the private property of another in the city, unless such dog, while away from such premises, is controlled by a leash not more than eight feet in length, such control to be exercised by such owner or custodian or other competent and authorized person. Any dog found roaming, running, straying or being away from such premises and not on a leash as provided in this section may be impounded subject to redemption in the manner provided by this chapter. Any case alleging a violation of this section is to be filed as a civil infraction. (Ord. 2404 § 1, 2002; Ord. 2013 § 30, 1995).

10.04.310 Restraint and enclosure.

All persons owning or having control or possession of any rabbits, goats, swine, chickens, turkeys, geese, ducks, horses, cattle, pigeons, pheasants, peacocks, or fowl within the city shall keep the same restrained and enclosed at all times on the premises owned and occupied by such persons. (Ord. 2404 § 1, 2002; Ord. 2013 § 31, 1995).

10.04.320 Disposal of diseased animal's carcass.

Every person owning or having in charge any animal that has died or been killed on account of disease shall immediately bury the carcass thereof at least three feet underground at a place approved by the chief of police, or cause the same to be consumed by fire, or by other legal, sanitary means. No person shall sell, offer to sell or give away the carcass of any animal which died or was killed on account of disease. Every violation of this section is a public nuisance. (Ord. 2404 § 1, 2002; Ord. 2013 § 32, 1995).

10.04.330 Pigeons.

The provisions of MMC 10.04.310 shall not apply to pigeons during periods when they are being trained or exercised; provided, that pigeons shall not be allowed to trespass on private property so as to damage, destroy or befoul any property. (Ord. 2404 § 1, 2002; Ord. 2013 § 33, 1995).

10.04.340 Location of building – Enclosures must be clean.

(1) Any building inhabited by livestock or fowl shall be located at a minimum distance of 100 feet of any adjoining residence.

(2) All houses, pens or enclosures where chickens, turkeys, geese, ducks, pigeons or other domestic fowl or rabbits are kept shall be kept clean and free from disagreeable odors. No organic materials furnishing food for flies shall be allowed to accumulate on the premises. All manure and other refuse must be kept in tightly covered fly-proof receptacles and disposed of at least once each week in a manner approved by the animal control officer. (Ord. 2404 § 1, 2002; Ord. 2013 § 34, 1995).

10.04.350 Pigsty.

No pigsty, piggery or other place where swine are kept shall be built or maintained on marshy ground or land subject to overflow, nor within 200 feet of any stream or other source of water supply, nor within 300 feet of any inhabited house or public meeting house on adjoining property. (Ord. 2404 § 1, 2002; Ord. 2013 § 35, 1995).

10.04.360 Swine – Garbage feeding.

When garbage is fed to pigs all unconsumed garbage shall be removed daily and disposed of by burial or incineration. No organic material furnishing feed for flies shall be allowed to accumulate on the premises. All garbage shall be handled and fed upon platforms of concrete or other impervious material. Unslaked lime, hypochlorite of lime, borax or mineral oil shall be used daily in sufficient quantities to prevent offensive odors and the breeding of flies. All garbage, offal and flesh fed to swine must be sterilized by cooking before feeding. (Ord. 2404 § 1, 2002; Ord. 2013 § 36, 1995).

10.04.370 Rat- and mice-free premises.

All premises where any of the livestock or fowl mentioned in this chapter are kept shall be kept free from rats and rat and mice harborages. (Ord. 2404 § 1, 2002; Ord. 2013 § 37, 1995).

10.04.380 Cruelty to animals.

The following statutes regarding cruelty to animals are incorporated by reference:

RCW	
46.61.660	Carrying Animals on Outside of Vehicle
16.52.011	Definitions
16.52.015	Enforcement Powers
16.52.080	Transporting or Confining Animals in an Unsafe Manner
16.52.085	Removal of Neglected Animals for Feeding and Restoration to Health – Examination – Notice – Return – Non-Liability

16.52.090 Docking Horses – Misdemeanor
16.52.095 Cutting Ears – Misdemeanor
16.52.100 Confinement Without Food and Water
16.52.110 Old or Diseased Animals at Large
16.52.117 Animal Fighting – Owners, Trainers, Spectators – Exceptions
16.52.180 Limitations on Application of Chapter
16.52.185 Exclusions from Chapter
16.52.190 Poisoning Animals
16.52.193 Poisoning Animals – Strychnine Sales
16.52.195 Poisoning Animals – Penalty
16.52.200 Sentences – Forfeiture of Animals – Liability for Costs – Civil Penalty
16.52.207 Cruelty to Animals in the Second Degree
16.52.210 Destruction of Animal by Law Enforcement Officer – Immunity from Liability
16.52.300 Dogs or Cats Used as Bait – Penalties

(Ord. 2404 § 1, 2002; Ord. 2013 § 38, 1995).

10.04.390 Dangerous dogs.

The following statutes regarding dangerous dogs are incorporated by reference:

RCW
16.08.070 Definitions
16.08.080 Registration
16.08.090 Restraint
16.08.100 Confiscation

(Ord. 2404 § 1, 2002; Ord. 2013 § 39, 1995).

10.04.400 Provisions of MMC 10.04.390 – Applicability.

The provisions of MMC 10.04.390 apply to all "dangerous dogs" and "potentially dangerous dogs" as defined in RCW 16.08.070. (Ord. 2404 § 1, 2002; Ord. 2013 § 40, 1995).

10.04.410 Declaration of potentially dangerous/dangerous dogs – Procedure.

(1) The police department shall classify potentially dangerous/dangerous dogs. The department may find and declare an animal potentially dangerous/dangerous if an animal control officer has probable cause to believe that the animal falls within the definitions set forth in MMC 10.04.390. The finding must be based upon:

(a) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of MMC 10.04.390; or

(b) Dog bite reports filed with the police department; or

(c) Actions of the dog witnessed by any animal control officer or law enforcement officer; or

(d) Other substantial evidence.

(2) The declaration of potentially dangerous/dangerous dog shall be in writing and shall be served on the owner in one of the following methods:

(a) Certified mail to the owner's last known address; or

(b) Personally; or

(c) If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.

(3) The declaration shall state at least:

(a) The description of the animal;

(b) The name and address of the owner, if known;

(c) The location of the animal if not in custody of the owner;

(d) The facts upon which the declaration of potentially dangerous dog is based;

(e) The restrictions placed on the animal; and

(f) The ability and process for appealing the declaration to the Marysville municipal court. (Ord. 2404 § 1, 2002; Ord. 2013 § 41, 1995).

10.04.420 Permits and fees.

Following the declaration of a potentially dangerous dog and the exhaustion of the appeal process, the owner of a potentially dangerous dog shall obtain a permit for such dog from the office of the city clerk upon proof that all registration requirements of RCW 16.08.080 have been satisfied, and shall be required to pay $100.00 for the permit. If the owner fails to obtain a permit or fails to file an appeal, the animal control officer is authorized to seize and impound the animal and, after notification to the owner, hold the animal for no more than five days before the destruction of the animal. (Ord. 2404 § 1, 2002; Ord. 2013 § 42, 1995).

10.04.430 Notification of status of potentially dangerous dog.

(1) The owner of a potentially dangerous dog shall immediately notify the police department when the animal:

(a) Is loose or unconfined off the property; or

(b) Has bitten or injured a human being or another animal; or

(c) Is sold or given away or dies; or

(d) Is moved to another address.

(2) Prior to a potentially dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control agency. The new owner shall comply with all the requirements of this chapter. (Ord. 2404 § 1, 2002; Ord. 2013 § 43, 1995).

10.04.440 Licensing – General requirements.

All animal shelters, kennels, catteries, hobby kennels, hobby catteries, pet shops, and grooming services must be licensed by the animal control authority. Licenses will be valid for one year from the date of application. Fees shall be assessed as determined by resolution of the city council. There is no proration of the license fee. Renewal licenses shall retain the original expiration date whether renewed prior to, on, or after their respective renewal month. Any person(s) who engages in more than one of the services or maintains more than one of the types of facilities cited in this section shall pay license fees as determined in this section. Veterinarians shall obtain the required license for any service other than the one which by law may be performed only by a veterinarian; provided, that no such license shall be required for his or her possession of animals solely for the purposes of veterinary care. (Ord. 2404 § 1, 2002; Ord. 2013 § 44, 1995).

10.04.450 Kennel permit required.

No person shall keep dogs and/or cats over three months of age which exceed the maximums identified in MMC 10.04.470 or operate a "commercial kennel" as defined in Chapter 19.08 MMC without first obtaining a written approval from the animal control officer. The animal control officer shall have administrative authority to allow an excess of the maximum number of dogs and cats referred to in MMC 10.04.470 or to operate a commercial kennel; provided, however, in no event shall such administrative approval be granted for an excess of the maximums by more than six dogs or cats without a conditional use permit from the city hearing examiner and city council. The factors to be considered in granting or denying such an excess shall be the same as set forth in MMC 10.04.470 (2)(c)(iv). Any aggrieved party may appeal the decision of the animal control officer to the city hearing examiner, and said examiner is hereby authorized to hear such appeals and make a recommendation to the city council; provided, further, that no such permit shall be required in the case of a legally established commercial enterprise which operates exclusively as a "veterinary hospital or clinic," "pet shop" or "grooming parlor" as defined in Chapter 19.08 MMC. (Ord. 2404 § 1, 2002; Ord. 2013 § 45, 1995).

10.04.460 Commercial kennels and pet shops – General conditions.

Commercial kennels and pet shops shall meet the following conditions:

(1) Animal housing facilities shall be provided the animals and shall be structurally sound and shall be maintained in good repair; shall be designed so as to protect the animals from injury and restrict the entrance of other animals.

In addition, each animal housed in any animal shelter, commercial kennel or pet shop or enclosure therein shall be provided with adequate floor space to allow each animal to turn about freely and to easily stand, sit, and lie in a comfortable normal position.

(2) Electrical power shall be supplied in conformance with applicable electrical codes adequate to supply heating and lighting as may be required by this chapter.

(3) Water shall be supplied at sufficient pressure and quantity to clean indoor housing facilities and enclosures of debris and excreta.

(4) Suitable food and bedding shall be provided and stored in facilities adequate to provide protection against infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.

(5) Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.

(6) Washroom facilities, including sinks and toilets, with hot and cold water, shall be conveniently available to maintain cleanliness among animal caretakers and for the purpose of washing utensils and equipment.

(7) Sick, diseased or injured animals shall be separated from those appearing healthy and normal and if for sale, shall be removed from display and sale and kept in isolation quarters with adequate ventilation to keep from contaminating well animals.

(8) There shall be an employee or keeper on duty at all times during hours any store is open whose responsibility shall be the care and supervision of the animals in that shop or department held for sale or display.

(9) An employee, keeper or owner shall make provision to feed, water and do the necessary cleaning of animals on days the store or establishment is closed.

(10) No person, persons, association, firm or corporation shall misrepresent an animal to a consumer in any way.

(11) No person, persons, associations, firm or corporation shall knowingly sell a sick or injured animal.

(12) Animals which are caged, closely confined or restrained shall be permitted daily, and for an appropriate length of time, as determined by their size, age and species, to exercise in a yard or area suitable for that purpose. (Ord. 2404 § 1, 2002; Ord. 2013 § 46, 1995).

10.04.470 Hobby kennel or hobby cattery – Conditions.

(1) Limitation on Number of Dogs and Cats Allowed. Any hobby kennel or hobby cattery license shall limit the total number of dogs and cats over three months of age kept by such hobby kennel or hobby cattery based on the following guidelines:

(a) The amount of lot area; provided, that the maximum number shall not exceed 25 where the lot area contains five acres or more; the maximum number shall not exceed five per acre where the lot area contains one acre but less than five acres and the maximum number shall not exceed four where the lot area is less than one acre;

(b) The facility specifications or dimensions in which the dogs and cats are to be maintained;

(c) The zoning classification in which the hobby kennel or hobby cattery would be maintained.

(2) Requirements – Hobby Kennels and Hobby Catteries.

(a) All open run areas shall be completely surrounded by a six-foot fence set back at least 20 feet from all property lines; provided this requirement may be modified for hobby catteries as long as the open run area contains the cats and prohibits the entrance of children. For purposes of this section "open run area" means that area, within the property lines of the premises on which the hobby kennel or hobby cattery is to be maintained, where the dogs and cats are sheltered or maintained. If there is no area set aside for sheltering or maintaining the dogs within the property lines of premises not containing an open run area, it must be completely surrounded by a six-foot fence.

(b) No commercial signs or other appearances advertising the hobby kennel or hobby cattery are permitted on the property except for the sale of the allowable offspring set forth in this section, or otherwise allowable under the city sign code as codified in Chapter 16.16 MMC et seq.

(c) The animal control officer may require setback, additional setback, fencing, screening or soundproofing as she or he deems necessary to insure the compatibility of the hobby kennel or hobby cattery with the surrounding neighborhood. Factors to be considered in determining such compatibility are:

(i) Statement regarding approval or disapproval of surrounding neighbors relative to maintenance of a hobby kennel or hobby cattery at the address applied for;

(ii) Past history of animal control complaints relating to the dogs and cats of the applicant at the address for which the hobby kennel or hobby cattery is applied for;

(iii) Facility specifications and dimensions in which the dogs and cats are to be maintained;

(iv) Animal size, type and characteristics of breed;

(v) The zoning classification of the premises on which the hobby kennel or hobby cattery is maintained.

(d) The hobby kennel or hobby cattery shall limit dog and cat reproduction to no more than one litter per license year per female dog and two litters per license year per female cat.

(e) Each dog and cat in the hobby kennel or hobby cattery shall have current and proper immunization from disease according to the dog's and cat's species and age. Such shall consist of DHLPP inoculation for dogs over three months of age and FVRCP for cats over two months of age and rabies inoculations for all dogs and cats over six months of age.

(3) License Issuance and Maintenance. Only when the animal control officer is satisfied that the requirements of this chapter have been met, may a hobby kennel or hobby cattery license be issued. The license will continue in full force throughout the license year unless, at anytime, the hobby kennel or hobby cattery is maintained in such a manner as to:

(a) Exceed the number of dogs and cats allowed at the hobby kennel by the animal control section; or

(b) Fail to comply with any of the requirements of this chapter.

(4) Special Hobby Kennel License.

(a) Persons owning a total number of dogs and cats exceeding four who do not meet the requirements for a hobby kennel license may be eli-

gible for a special hobby kennel license to be issued at no cost by the animal control authority which will allow them to retain the specific animals then in their possession provided that the following conditions are met:

(i) The applicant must apply for the special hobby kennel license and individual licenses for each dog and cat within 30 days of the enactment of this chapter or at the time they are contacted by an animal control officer;

(ii) The applicant is keeping the dogs and cats for the enjoyment of the species, and not as a commercial enterprise.

(b) The special hobby kennel license shall only be valid for those specific dogs and cats in the possession of the applicant at the time of issuance, and is intended to allow pet owners to possess animals beyond the limits imposed by code until such time as the death or transfer of such animals reduces the number possessed to the legal limit set forth by code.

(c) The animal control officer may deny any application or revoke a special hobby kennel license based on past animal control code violations by the applicant's dogs and cats; or complaints from neighbors regarding the applicant's dogs and cats; or if the animal(s) is maintained in inhumane conditions.

(d) The provisions of this subsection (4) shall automatically be repealed on December 31, 1995, and thereafter a special hobby kennel license shall not be allowed. (Ord. 2404 § 1, 2002; Ord. 2013 § 47, 1995).

10.04.480 Grooming parlors – Conditions.

Grooming parlors shall:

(1) Not board animals, but keep said animals for a reasonable time in order to perform the business of grooming;

(2) Keep each animal in an individual cage;

(3) Not permit animals therein kept for the direct purpose of grooming to have contact with other animals kept therein;

(4) Sanitize all equipment after each animal has been groomed;

(5) Not prescribe treatment or medicine that is in the province of a licensed veterinarian as provided in RCW 18.92.010;

(6) Not leave animals unattended during the drying process;

(7) Take reasonable precautions to prevent injury from occurring to any animals while in the custody of said parlor. (Ord. 2404 § 1, 2002; Ord. 2013 § 48, 1995).

10.04.490 Violation – Penalties.

(1) Any violation of this chapter not otherwise designated a misdemeanor or gross misdemeanor shall constitute a civil infraction punishable by a fine in an amount not to exceed $250.00.

(2) Any person violating any provision of this chapter not otherwise designated a misdemeanor or gross misdemeanor three or more times in any 12-month period shall have committed a civil infraction punishable by a fine not to exceed $500.00.

(3) Any violation of this chapter designated a misdemeanor shall be punishable by a maximum of 90 days in jail and/or a fine not to exceed $1,000.

(4) Any violation of this chapter designated a gross misdemeanor shall be punishable by a maximum of 365 days in jail and/or a fine not to exceed $5,000. (Ord. 2404 § 1, 2002; Ord. 2013 § 49, 1995).

10.04.500 Public nuisance – Notice of abatement – Penalties.

Any violation of MMC 10.01.145 to 10.01.170 shall constitute a public nuisance. Upon being advised of the same, the animal control officer may serve notice upon the owner or occupant of the subject premises requiring that the nuisance be abated within a period of not less than three days. It shall be unlawful for any person to fail to comply with the notice of abatement. Any person found guilty of the failure to comply shall be guilty of a separate civil infraction for each day of noncompliance. (Ord. 2404 § 1, 2002; Ord. 2013 § 50, 1995).

10.04.510 Public nuisance – Petition – Notice of abatement.

Whenever it shall be affirmed in writing by three or more persons having separate residences or regularly employed in the neighborhood that any dog or cat is a habitual public nuisance by reason of continued violations of any section of this chapter, the animal control officer may serve notice upon the owner or custodian of the dog or cat ordering that the nuisance be abated within a period of not less than three days. It shall be unlawful for any person to fail to comply with said notice of abatement, and shall be cause for impoundment of the dog or cat. (Ord. 2404 § 1, 2002; Ord. 2013 § 51, 1995).

Title 11

TRAFFIC

Chapters:

11.04 Traffic Code
11.06 Skateboarding/In-Line Skating in Comeford Park
11.08 Parking Regulations
11.12 Cruising on State Avenue
11.14 Motorized Scooters
11.16 Regulatory Signs and Zones
11.24 Railway Trains and Crossings
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11.37 Tow Truck Businesses Used by the City
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Chapter 11.04

TRAFFIC CODE

Sections:

Article I. Generally

11.04.010 Model Traffic Ordinance adopted by reference.
11.04.020 MTO sections not adopted.
11.04.030 Definition of "highway."
11.04.033 Maximum speed on State Avenue.
11.04.035 Maximum speed in alleyways.
11.04.040 Use of compression brakes.
11.04.060 Inattention to driving.
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11.04.070 Traffic fines and forfeitures – Disposition.
11.04.080 Traffic fines and forfeitures – Official misconduct.
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Article II. Impounds

11.04.100 Impoundment of vehicle where driver is arrested for a violation of RCW 46.20.005, 46.20.015, 46.20.342, 46.20.420, 46.61.502, 46.61.504 – Period of impoundment.
11.04.110 Redemption of impounded vehicles.
11.04.120 Post-impoundment hearing procedure.
11.04.130 Effective date.

Article I. Generally

11.04.010 Model Traffic Ordinance adopted by reference.

The "Washington Model Traffic Ordinance," Chapter 308-330 WAC, hereinafter referred to as the "MTO," is adopted by reference as the traffic code for the city, along with Sections 4, 5, 6, 7, 10, 11, 12 and 23 of Chapter 275, Laws of 1994 as it now reads or is hereafter amended, as if set forth in full in this section, except as provided in MMC 11.04.025. (Ord. 1989 § 2, 1994).

11.04.020 MTO sections not adopted.

The following sections in or of the MTO are not adopted by reference and are expressly deleted:

RCW 46.04.431 (definition of "highway"); WAC 308-330-210 (police administration); WAC 308-330-215 (duty of traffic division); WAC 308-330-250 (bicycle licenses); WAC 308-330-255 (parking meters); WAC 308-330-260, 308-330-265, 308-330-270, 308-330-275 (traffic engineer and safety commission); WAC 308-330-500, 308-330-505, 308-330-510, 308-330-515, 308-330-520, 308-330-525, 308-330-530, 308-330-535, 308-330-540, 308-330-560 (bicycle licensing); WAC 308-330-600, 308-330-610, 308-330-620, 308-330-630, 308-330-640, 308-330-650 (parking meters); WAC 308-330-660 (service parking). (Ord. 1989 § 4, 1994).

11.04.030 Definition of "highway."

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Ord. 2565 § 1, 2005; Ord. 1306 § 2, 1983).

11.04.033 Maximum speed on State Avenue.

(1) The maximum speed on State Avenue between Grove Street and 100th Street N.E., unless otherwise posted, shall be 30 miles per hour. Violation of this section shall constitute a traffic infraction under RCW 46.61.400 and incorporated by the city.

(2) The maximum speed on State Avenue between Bridge No. 539/25 and Grove Street, unless otherwise posted, shall be 30 miles per hour. Violation of this section shall constitute a traffic infraction under RCW 46.61.400 and incorporated by the city. (Ord. 2563 § 2, 2005; Ord. 2501 § 2, 2003).

11.04.035 Maximum speed in alleyways.

Unless otherwise posted, the maximum speed limit in all alleyways within the city shall be 10 miles per hour. Violation of this section shall constitute a traffic infraction. (Ord. 2429 § 1, 2002).

11.04.040 Use of compression brakes.

(1) No person shall use compression brakes while operating a motor vehicle upon any street where signs prohibit the use of compression brakes, except as such use is necessary in an emergency.

(2) Definitions.

(a) "Compression brakes" means a device which, when manually activated, retards the forward motion of a motor vehicle by the direct and sole use of the compression of the engine of the vehicle. "Compression brakes" are sometimes called "jake brakes."

(b) An "emergency" contemplates that an immediate stoppage or slowing of the vehicle is

necessary in order to prevent injury to persons or damage to property or to remedy an injury that has already occurred, and that friction brakes are either not available or would not have been as effective in bringing the vehicle to a stop or slowing it.

(c) This section shall not apply to vehicles of a municipal fire department/district, whether or not responding to an emergency, participating in an exercise in emergency management, or rendering assistance under a mutual aid pact.

(d) Violations of this section shall be punished as a traffic infraction. (Ord. 2294 § 1, 1999).

11.04.060 Inattention to driving.

It shall constitute a traffic infraction for any person to operate a motor vehicle in an inattentive manner over and along the highways of the city. For the purpose of this section, to operate in an inattentive manner shall be construed to mean the operation of a vehicle in a manner which, without regard to speed, is not reasonable and prudent under the conditions and without having regard to the actual and potential hazards then existing. The offense of inattention to driving shall be construed to be a lesser offense than, but included in, the offense of operating a vehicle in a negligent manner, and any person charged with operating a vehicle in a negligent manner may be convicted of the lesser offense of operating a motor vehicle in an inattentive manner. (Ord. 1306 § 2, 1983).

11.04.062 Short cutting prohibited.

It shall constitute a traffic infraction for any person to drive a motor vehicle across private property not owned by such person for the sole purpose of short cutting between two public streets, except under emergency circumstances or in compliance with directions of a police officer or traffic-control device. (Ord. 1794, 1990).

11.04.070 Traffic fines and forfeitures – Disposition.

All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid into the general fund of the city. (Ord. 1306 § 2, 1983).

11.04.080 Traffic fines and forfeitures – Official misconduct.

Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any fine or forfeiture of bail regulated in MMC 11.04.070, either before or after deposit in the general fund, to comply with the provisions of MMC 11.04.070, shall constitute misconduct in office and shall be grounds for removal therefrom, provided appropriate removal action is taken pursuant to state law relating to removal of public officials. (Ord. 1306 § 2, 1983).

11.04.085 Warrant checks.

In addition to any other authority granted to law enforcement officers by any federal, state or local law or regulation, law enforcement officers are authorized to search for outstanding warrants upon making a stop, or upon making contact with a person, for a traffic infraction or nontraffic infraction. (Ord. 2143 § 1, 1997).

11.04.090 Penalties for violation.

Any person who violates or fails to comply with any of the provisions of this title, or who counsels, aids or abets any such violation or failure to comply shall be civilly liable for a traffic infraction, or criminally liable for a misdemeanor or gross misdemeanor, depending upon the classification of such offense specified in RCW 46.63.020. Where an offense defined in this title is not included in state law, it shall be considered to be a misdemeanor.

The monetary penalty for traffic infractions defined by state law shall be as specified in RCW 46.63.110. The monetary penalty for traffic infractions not defined by state law shall be in an amount not to exceed $250.00. The criminal penalty for misdemeanors and gross misdemeanors shall be that specified in state law for said crime; provided, that in no event shall a fine or imprisonment exceed the statutory limits set by RCW 35A.11.020. In any case where state law specifically establishes limits on a penalty which are different than those established in the Marysville Municipal Code, state law shall control.

Notwithstanding any other provision of this section, the monetary penalty for a traffic infraction for a violation of MMC 6.76.060(8) shall be in an amount not to exceed $250.00. (Ord. 2255 § 2, 1999; Ord. 1421 § 3, 1985; Ord. 1306 § 2, 1983).

Article II. Impounds

11.04.100 Impoundment of vehicle where driver is arrested for violation of RCW 46.20.005, 46.20.015, 46.20.342, 46.20.420, 46.61.502, 46.61.504 – Period of impoundment.

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.20.005, 46.20.015, 46.20.342, 46.20.420, 46.61.502 or 46.61.504, the

vehicle is subject to impoundment at the direction of a police officer.

(2) Whenever the driver of a vehicle is arrested or cited for a violation of RCW 46.20.005, 46.20.015, 46.20.342, 46.20.420, 46.61.502 or 46.61.504, then the vehicle may be released as soon as all the requirements of MMC 11.04.110(1) are satisfied.

(3) If a vehicle is impounded because the driver is arrested for a violation of RCW 46.20.342(1)(c) and the Washington Department of Licensing's records show that the driver has been convicted one time of a violation of RCW 46.20.342 or similar local ordinance within the past five years, the vehicle shall be impounded for 15 days.

(4) If a vehicle is impounded because the driver is arrested for a violation of RCW 46.20.342(1)(c) and the Washington Department of Licensing's records show that the driver has been convicted two or more times of a violation of RCW 46.20.342 or similar local ordinance within the past five years, the vehicle shall be impounded for 30 days.

(5) If a vehicle is impounded because the driver is arrested for a violation of RCW 46.20.342(1)(a) or (b) and the Washington Department of Licensing's records show that the driver has not been convicted of a violation of RCW 46.20.342(1)(a) or (b) or similar local ordinance within the past five years, the vehicle shall be impounded for 30 days.

(6) If a vehicle is impounded because the driver is arrested for a violation of RCW 46.20.342(1)(a) or (b) and the Washington Department of Licensing's records show that the driver has been convicted one time of a violation of RCW 46.20.342(1)(a) or (b) or similar local ordinance once within the past five years, the vehicle shall be impounded for 60 days.

(7) If a vehicle is impounded because the driver is arrested for a violation of RCW 46.20.342(1)(a) or (b) and the Washington Department of Licensing's records show that the driver has been convicted of a violation of RCW 46.20.342(1)(a) or (b)

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or similar local ordinance two or more times within the past five years, the vehicle shall be impounded for 90 days. (Ord. 2221 § 1, 1998).

11.04.110 Redemption of impounded vehicles.

Vehicles impounded by the city shall be redeemed only under the following circumstances:

(1) Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produces proof of ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to MMC 11.04.100 must prior to redemption establish that he or she has a valid driver's license and is in compliance with RCW 46.30.020. A vehicle impounded pursuant to MMC 11.04.100(3) through (7) can be released only pursuant to a written order from the court.

(2) Any person so redeeming a vehicle impounded by the city shall pay the towing contractor for costs of impoundment removal, towing and storage prior to redeeming such vehicle, except as provided for by subsection (3) of this section. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b) as now or hereafter amended. If the vehicle was impounded pursuant to MMC 11.04.100 and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines or forfeitures owed by the registered owner have been satisfied.

(3) The municipal court is authorized to release a vehicle impounded pursuant to MMC 11.04.100(3) through (7) prior to the expiration of any period of impoundment upon petition of the spouse of the driver based on economic or personal hardship to such spouse resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from release of the vehicle including, but not limited to, the driver's criminal history, driving record, license status, and access to the vehicle. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of subsections (1) and (2) of this section.

(4) Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a municipal court hearing to contest the validity of an impoundment or the amount of removal, towing, and storage charges if such request for hearing is in writing, in a form approved by the municipal court and signed by such person, and is received within 10 days (including Saturdays, Sundays and holidays) of the date the notice was given to such person by the registered tow truck operator pursuant to RCW 46.55.120(2)(a). Such hearing shall be provided as follows:

(a) If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under MMC 11.04.100, have been satisfied, then the impounded vehicle shall be released immediately and a hearing as provided for in MMC 11.04.120 shall be held within 90 days of the written request for hearing.

(b) If not all of the requirements to redeem the vehicle, including expiration of any period of impoundment under MMC 11.04.100, have been satisfied, then the impounded vehicle shall not be released until after the hearing provided pursuant to MMC 11.04.120, which shall be held within two business days (excluding Saturdays, Sundays and holidays) of the written request to the court for hearing.

(c) Any person seeking a hearing who has failed to request such hearing within the time specified in subsection (4) of this section may petition the municipal court for an extension of time to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For the purposes of this section, good cause shall be defined as circumstances beyond the control of the person seeking the hearing that prevented such person from filing a timely request for hearing. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this chapter.

(d) If a person fails to file a timely request for hearing and no extension to file such a request has been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and the city shall not be liable for removal, towing, and storage charges arising from the impoundment. (Ord. 2221 § 2, 1998).

11.04.120 Post-impoundment hearing procedure.

Hearings requested pursuant to MMC 11.04.110 shall be held in the municipal court, which court shall determine whether the impoundment was proper and whether the associated removal, towing, and/or storage fees were proper.

(1) At the hearing, an abstract of the driver's driving record is admissible without further evidentiary foundation and is prima facie evidence of the status of the driver's license, permit, or privilege to drive and that the driver was convicted of

each offense shown on the abstract. In addition, a certified vehicle registration of the impounded vehicle is admissible without further evidentiary foundation and is prima facie evidence of the identity of the registered owner of the vehicle.

(2) If the impoundment is found to be proper, the court shall enter an order so stating. In the event that the costs of impoundment, removal, towing, and storage have not been paid or any other applicable requirements of MMC 11.04.110(2) have not been satisfied or any period of impoundment under MMC 11.04.100 has not expired, the court's order shall also provide that the impounded vehicle shall be released only after payment to the city of any fines imposed on any underlying traffic or parking infraction and satisfaction of any other applicable requirements of MMC 11.04.110(2).

(3) If the impoundment is found to be improper, the court shall enter an order so stating and order the immediate release of the vehicle. If the costs of impoundment have already been paid, the court shall enter judgment against the city and in favor of the person who has paid the costs of impoundment in the amount of the costs of the impoundment.

(4) In the event that the court finds that the impound was proper, but that the removal, towing and storage fees charged for the impoundment were improper, the court shall determine the correct fees to be charged. If the costs of impoundment have been paid, the court shall enter a judgment against the city and in favor of the person who has paid the costs of impoundment for the amount of the overpayment.

(5) No determination of facts made at a hearing under this section shall have any collateral estoppel effect on a subsequent criminal prosecution and such determination shall not preclude litigation of those same facts in a subsequent criminal prosecution.

(6) As to any impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.420, if it is determined to be improper, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. (Ord. 2221 § 3, 1998).

11.04.130 Effective date.

This article shall take effect and be in force as of midnight between December 31, 1998 and January 1, 1999. (Ord. 2221 § 4, 1998).

Chapter 11.06

SKATEBOARDING/IN-LINE SKATING IN COMEFORD PARK

Sections:

11.06.010 Riding skateboard/use of in-line skates in Comeford Park.
11.06.020 Penalties.

11.06.010 Riding skateboard/use of in-line skates in Comeford Park.

It is unlawful for any person to ride a skateboard or use in-line skates within Comeford Park, the city senior community center within Comeford Park, or the parking lot and immediate public sidewalks surrounding Comeford Park in the city of Marysville. (Ord. 2208 § 2, 1998).

11.06.020 Penalties.

Violation of any of the provisions of MMC 11.06.010 is a traffic offense, whether or not the act at issue occurs upon a roadway, and shall be punished as follows:

(1) First Offense. It is a traffic infraction for any person to violate MMC 11.06.010, and shall be punished by a fine of $25.00 (to include all costs and assessments). This fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or a part of this fine.

(2) Second Offense. Every person who violates MMC 11.06.010 a second time with a five-year period shall be guilty of a traffic infraction, punishable by a fine of not less than $50.00 (to include all costs and assessments). This fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or a part of this fine.

(3) Third or Subsequent Offense. Every person who violates MMC 11.06.010 a third or more times within a five-year period shall be guilty of a traffic infraction punishable by a fine of not less than $100.00 nor more than $1,000. One hundred dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of a fine. (Ord. 2208 § 3, 1998).

Chapter 11.08

PARKING REGULATIONS

Sections:

11.08.010 Purpose.
11.08.020 Definitions.
11.08.030 Stopping, standing or parking prohibited in specified places.
11.08.040 Stopping, standing or parking next to curb.
11.08.050 Improper stopping, standing or parking.
11.08.060 Stopping, standing and parking of buses and taxicabs.
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11.08.090 Parking for certain purposes prohibited.
11.08.100 Parking in passenger loading zone.
11.08.110 Parking in loading zone.
11.08.120 Parking in a tow-away zone.
11.08.130 Parking in a fire lane.
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11.08.010 Purpose.

Pursuant to Article 11, Section 11 of the Constitution of the state of Washington and Title 46 of the Revised Code of Washington, and RCW 35.22.280 (7) and (30), the city enacts the ordinance codified as Chapter 11.08 MMC in the exercise of the police power, to protect the public health and safety and promote the general welfare of the community by:

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(1) Making possible the use of on-street parking spaces by the maximum number of vehicles consistent with the demands of commerce;

(2) Minimizing the congestion and air pollution caused by slow-moving and recirculating motor vehicles;

(3) Accommodating the maintenance of public streets in a condition reasonably safe for public travel;

(4) Fostering the conduct of private and public commerce;

(5) Encouraging respect and general public obedience of the laws of the city and deterring repeated violations.

This chapter does not create nor otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these regulations. It is the specific intent of the regulations set forth in this chapter to place the obligation of compliance upon the registered owner, legal owner and driver of the vehicle and no provision or term used in these regulations is intended to impose any duty whatsoever upon the city or any of its officers, employees, or agents for whom the implementation or enforcement of these regulations shall be discretionary and not mandatory.

Nothing contained in these regulations is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents, for any injury or damage resulting from the failure to comply with these regulations, or in consequence or in connection with the implementation or enforcement of these regulations, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of these regulations by its officers, employees or agents.

Notwithstanding any language used in this chapter, it is not the intent of this chapter to create a duty and/or cause of action running to any individual or identifiable person, but rather any duty is intended to run only to the general public. (Ord. 1912, 1992).

11.08.020 Definitions.

Unless otherwise provided or unless the context clearly requires a different meaning, the following terms shall have the meaning given to them herein:

"Alley" means a public highway not designed for general travel and used primarily as a means of access to the rear of residences and business establishments.

"Alley entrance" means that portion of the street which provides access to an alley through curb cut or a depression in the constructed curb or, when there is no constructed curb, that are in front of such alley as is well defined or is designated by authorized signs, markings or existing physical features. "Alley entrance" shall include an alley exit for one-way alleys.

"Bus" means every motor vehicle designed for carrying more than 10 passengers and used for transportation of persons, and every motor vehicle, other than taxicabs, designed and used for the transportation of persons for compensation.

"Bus stop" means a fixed portion of the highway parallel and adjacent to the curb and designated by a sign to be reserved exclusively for buses for layover in operating schedules or while waiting for, loading or unloading passengers; provided, that such bus provides regularly scheduled service within the city.

"Camper" means a structure designed to be mounted upon a motor vehicle and which provides facilities for human habitation or for temporary outdoor or recreational lodging.

"City" means the city of Marysville.

"City street" or "street" means every public highway or part thereof located within the limits of the city, except alleys.

"Crosswalk" means that portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no improved sidewalks, then between the intersection area and a line 10 feet therefrom, except as modified by a marked crosswalk.

"Curb" or "curb line" means the edge of a roadway, either marked by curbing construction or not.

"Fire exit" means that portion of any street contiguous to and opposite any outside court, corridor, passage, fire escape, exit or entrance door, or any other place adjacent to, or any door opening in an outer wall of any building containing, in whole or in part, any theater, public auditorium, church, dance hall or other public assembly through which the public must pass to leave such building.

"Fire zone" means an area of street in the vicinity of churches, schools, hospitals, theaters or other public buildings; and an area along curves, narrow streets and in alleys to facilitate unimpeded exit from such buildings by large numbers of persons and to facilitate adequate maneuvering room for fire apparatus at all times.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if there are no curbs, then the lateral roadway boundary

lines of two or more streets which join one another at an angle, whether or not such streets cross one another. The junction of an alley with a street or highway shall not constitute an intersection for purposes of this ordinance.

"Legal owner" means a person having a security interest in a vehicle perfected in accordance with Chapter 46.12 RCW or the registered owner of a vehicle unencumbered by a security interest or the lessor of a vehicle unencumbered by a security interest.

"Loading zone" means a space reserved for the exclusive use of vehicles during the loading or unloading of property or passengers.

"Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

"Motor home" means motor vehicles originally designed, reconstructed or permanently altered to provide human habitation.

"Motor vehicle" means every vehicle which is self propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

"Operator" or "driver" means every person who drives or is in actual physical control of a vehicle.

"Ordinance" means the city's parking regulation ordinance codified in this chapter.

"Owner" means a person who has lawful right of possession of a vehicle by reason of obtaining it by purchase, exchange, gift, lease, inheritance or legal action whether or not the vehicle is subject to a security interest and means registered owner where the reference to owner may be construed as either to registered or legal owner.

"Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading of property or passengers.

"Parking enforcement officer" means an employee of the city under the direction of the police department who is responsible, along with the city's police officers, to enforce the provisions of this chapter.

"Parking space" means any space which is duly designated for the parking of a single vehicle by appropriate markings on the pavement and/or the curb.

"Parking violation" means a traffic infraction which is the infringement of any parking regulation adopted by the city.

"Passenger loading zone" means a place reserved for the exclusive use of vehicles while receiving or discharging passengers.

"Planting strip" means the portion of a highway lying between the constructed curb and the property line exclusive of the sidewalk area.

"Police officer" means a law enforcement officer of the city of Marysville.

"Registered owner" means the person whose lawful right of possession of a vehicle has most recently been recorded with the Washington State Department of Licensing.

"Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder, even though such sidewalk or shoulder is used by persons riding bicycles.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by painted marks, signs, buttons, standards or otherwise, so as to be plainly discernible.

"Sidewalk" means the property between the curb lines or for the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public highway and dedicated to use by pedestrians.

"Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

"Stop" or "stopping" means any halting of a vehicle resulting in complete cessation from movement, even momentarily.

"Tow-away zone" means a portion of a street or alley that is signed or marked as a tow-away zone.

"Trailer" includes every vehicle without power designed for being drawn by or used in conjunction with a motor vehicle.

"Truck" means any motor vehicle designed or used for the transportation of commodities, merchandise, produce, freight or animals.

"Truck loading zone" means a designated portion of the street reserved for the exclusive use of truck-licensed commercial vehicles during the loading and unloading of materials.

"Vehicle" means every device capable of being moved upon a highway and in, upon or by which any person or property is or may be transported or drawn upon a public highway, including mopeds, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks. For purposes of this chapter, the definition of vehicle encompasses, but is not limited to, motor

vehicles, trailers, trucks and motorcycles. (Ord. 1912, 1992).

11.08.030 Stopping, standing or parking prohibited in specified places.

(1) Except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a police officer or official traffic control device, no person shall:

(a) Stop, stand or park a vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street,

(ii) On a sidewalk or street planting strip,

(iii) Within an intersection,

(iv) On a crosswalk,

(v) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone,

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic,

(vii) Upon any bridge or other elevated structure upon a highway or within a highway tunnel,

(viii) On any railroad tracks,

(ix) In the area between roadways of a divided highway, including cross-overs,

(x) At any place where official signs prohibit stopping, or

(xi) Within any fire zone or fire exit;

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway or within five feet of the end of the curb radius leading thereto,

(ii) Within 15 feet of a fire hydrant,

(iii) Within 20 feet of a crosswalk,

(iv) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic control signal located at the side of a roadway,

(v) Within 20 feet of the driveway entrance to any and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signed,

(vi) At any place where official signs prohibit standing, or

(vii) At any place where city barricades are placed;

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers;

(i) Within 50 feet of the nearest rail of a railroad crossing, or

(ii) At any place where official signs prohibit parking;

(d) Reserve or attempt to reserve any portion of a street or alley for the purpose of stopping, standing, or parking to the exclusion of any other like person, nor shall any person be granted such right.

(2) Parking or standing shall be permitted in the manner provided by law at all other places except where a time limitation or parking restriction has been imposed.

(3) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is prohibited. (Ord. 1912, 1992).

11.08.040 Stopping, standing or parking next to curb.

(1) Parallel Parking. Every vehicle standing or parked upon a two-way roadway shall have the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right hand shoulder.

(2) Angle Parking.

(a) Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. The wheels nearest the curb or edge of the roadway shall be no more than 12 inches away from said curb or edge;

(b) No person shall stop, stand or park a vehicle in any space which has been signed or marked for angle parking so that the vehicle, or any portion thereof, extends into the traveled portion of the roadway so that the vehicle either obstructs, endangers or is likely to obstruct or endanger pedestrians or traffic.

(3) Parking on Grade. Notwithstanding the requirements set forth in this section, no person shall stand or park a vehicle upon any perceptible grade without first turning the front wheels to the curb or the side of the roadway. (Ord. 1912, 1992).

11.08.050 Improper stopping, standing or parking.

(1) No person shall stop, stand or park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space, protrudes beyond the markings designating such space or protrudes into the maneuvering lines.

(2) No person shall stop, stand or park a vehicle in any parking space for a period of time longer

than the period allowed in that time zone. Once a vehicle remains in a parking space beyond the time which the time zone permits, each subsequent period of time for which the vehicle remains beyond the period of time allowed in that time zone shall constitute a separate violation.

(3) No person shall stop, stand or park a vehicle in any parking space which is designated "Motorcycle Only" unless the person stops, stands or parks a motorcycle as defined in MMC 11.08.020 within the designated parking space. Motorcycle spaces will be appropriately designated by the city's traffic engineer.

(4) No person shall stop, stand or park a vehicle in any parking space which is designated "Small Cars Only" unless the person stops, stands or parks a small car as defined herein within the designated parking space. "Small cars" shall be those vehicles which can be stopped, stood or parked entirely within the markings on the pavement which outline the "Small Car Only" parking space. "Small Car Only" spaces will be appropriately designated by the city engineer. (Ord. 1912, 1992).

11.08.060 Stopping, standing and parking of buses and taxicabs.

(1) The operator of a bus shall not stand or park such vehicle upon any street or alley at any place other than a designated bus stop. This provision shall not prevent the operator of a bus from temporarily stopping in accordance with other stopping, standing or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers or their baggage.

(2) The operator of a taxicab shall not stand or park such vehicle upon any street or alley at any place other than in a designated taxicab stand. This provision shall not prevent the operator of a taxicab from stopping in accordance with other stopping, standing or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(3) No person shall stop, stand or park a vehicle other than a bus in an officially authorized bus stop, or other than a taxicab in an officially authorized taxicab stand, except the driver of a passenger vehicle may temporarily stop there for the purpose of or while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such stop or stand. (Ord. 1912, 1992).

11.08.070 Parking for disabled persons.

(1) A person who has received a current and valid special disabled person's card, decal or license plate from the Washington State Department of Licensing under RCW 46.16.380 shall be allowed to park a vehicle being used to transport such person in parking meter spaces free of charge and for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted. This section shall have no application to those zones or areas in which the stopping, parking or standing of all vehicles is prohibited or which are reserved for special types of vehicles. Such person shall not be permitted the foregoing privilege unless the person obtains and displays a distinguishing card, decal or license plate issued pursuant to RCW 46.16.380.

(2) No person shall stop, stand or park a vehicle in a parking space reserved for disabled persons provided on public property or on private property without charge without a special license plate, card or decal issued pursuant to RCW 46.16.380. In addition to assessing the penalty identified in MMC 11.08.250, the police department may remove and impound the offending vehicle.

(3) A public parking space or stall for a disabled person shall be identified by a vertical sign, between 36 and 84 inches off the ground, with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120 and the notice "State disabled parking permit required."

(4) A parking space or stall for a disabled person shall also be identified by a painted white line at least four inches in width on the improved surface delineating the perimeter of the parking space or stall and a legend of the international symbol of access on the surface of the stall in white per city standards. (Ord. 2374, 2001; Ord. 1912, 1992).

11.08.080 Parking for disabled persons – Private property.

Parking for disabled persons on private property may be regulated on private property in accordance with those provisions authorized by law including, but not limited to, RCW 46.16.381. (Ord. 2074 § 3, 1996; Ord. 1912, 1992).

11.08.090 Parking for certain purposes prohibited.

(1) No person shall park any vehicle upon any street or alley for the principal purpose of:

(a) Displaying of commercial, noncommercial or political signs;

(b) Displaying such vehicle for sale;

(c) Selling merchandise from such vehicle, except when authorized by the city clerk.

(2) No person shall park any vehicle upon any roadway for the principal purpose of washing, greasing or repairing such vehicle except repairs necessitated by an emergency. (Ord. 1912, 1992).

11.08.100 Parking in passenger loading zone.

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger loading zone during hours when the regulations applicable to the loading zone are effective, and then only for a period not to exceed three minutes. (Ord. 1912, 1992).

11.08.110 Parking in loading zone.

(1) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious unloading and delivery or pickup and loading of property in any place marked as a loading zone during hours when the provisions applicable to such zone are in effect. In no case shall the stop for loading and unloading of property exceed 30 minutes.

(2) The driver of a vehicle may stop temporarily at a loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any vehicle which is waiting to enter or about to enter such zone to load or unload property. (Ord. 1912, 1992).

11.08.120 Parking in a tow-away zone.

No person shall stop, stand or park a vehicle in a place marked as a tow-away zone during hours when the provisions applicable to such zone are in effect. (Ord. 1912, 1992).

11.08.130 Parking in a fire lane.

No person shall stop, stand or park a vehicle in a place marked as a fire lane approved by the city. (Ord. 1912, 1992).

11.08.140 Parking not to obstruct traffic.

(1) No person shall park a vehicle upon a street in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.

(2) No person shall stop, stand or park a vehicle within an alley unless otherwise specifically permitted in this chapter. (Ord. 1912, 1992).

11.08.150 Parking in truck loading zone.

No person shall stop, stand or park a truck-licensed commercial vehicle for any purpose or length of time other than for the expeditious unloading and loading of property in a truck loading zone during the hours the zone restriction is in effect, and then in no case shall such parking for loading and unloading of property exceed 30 minutes. No person shall stop, stand or park a vehicle in a truck loading zone which vehicle is not a truck-licensed commercial vehicle. (Ord. 1912, 1992).

11.08.160 Unattended vehicles.

Repealed by Ord. 2074. (Ord. 1912, 1992).

11.08.170 Moving vehicle in same block.

No person shall move and stand or repark a vehicle on a city street within the same block. For purposes of this section, said standing or parking of a vehicle shall be deemed continuous and in violation of this section despite any movement of said vehicle unless said vehicle is moved sufficiently to pass through or across a street intersection. (Ord. 1912, 1992).

11.08.180 Vehicle back to curb.

No person shall stop, stand or park a vehicle backed to the curb or at an angle to the curb on any city street except when specifically authorized by posted signs or painted parking stalls. (Ord. 1912, 1992).

11.08.190 Parking zones.

No person shall stop, stand or park a vehicle in a parking space beyond the time permitted by official signs. (Ord. 1912, 1992).

11.08.200 Parking recreational vehicles and trucks.

(1) No person shall park or park and detach any recreational vehicle (as defined in MMC 7.05.050) upon any street or alley; provided, however, a recreational vehicle may park on a city street for a maximum period of 24 hours, provided said recreational vehicle does not violate any parking restrictions (such as posted time zones) and meets all other parking regulations. It shall be a parking violation to move or re-park a recreational vehicle within two blocks of any location where the recre-

ational vehicle has previously parked in a residential zone for up to the 24-hour limit provided in this section.

(2) No person shall park or detach and park upon any street or alley the trailer and/or truck of a tractor-trailer combination which has a manufacturer's gross vehicle weight (combined) in excess of 16,000 pounds, a length in excess of 20 feet, or a width in excess of eight feet upon any portion of a street or alley; provided, however, that parking of all such trucks or tractor-trailer combinations shall be allowed exclusively on the following streets: 47th Avenue NE south of 2nd Street, excluding the area 350 feet south of the south pavement edge of 2nd Street; 36th Drive NE south of 136th Street NE; 38th Avenue NE south of 134th Street NE; 39th Avenue NE between 134th Street NE to 136th Street NE; 134th Street NE east of State Avenue; and 41st Avenue NE south of 134th Street NE. Said parking shall be subject to the requirement that blocks are placed under the trailer legs, the trailer is marked with reflectorized devices that meet all industry standards and not within a curved portion of the right-of-way.

(3) Trucks or tractor-trailer combinations with a manufacturer's gross vehicle weight in excess of 16,000 pounds, a length in excess of 20 feet, or a width in excess of eight feet may also park within the untraveled portion of a city street or alley when property is actively being loaded or unloaded from such vehicle; or when the vehicle is a city vehicle or public utility vehicle providing a service to the public; or the vehicle is an emergency vehicle; or such vehicle is currently used at and is located at a specific location within a residential zone for the purpose of assisting in the providing of services such as construction, carpentry, plumbing or landscaping to such residence or location. (Ord. 2365 § 1, 2001; Ord. 2337 § 2, 2000; Ord. 2114, 1997; Ord. 1912, 1992).

11.08.210 Use of streets and alleys.

The purpose of city streets and alleys is to facilitate vehicular and pedestrian travel and provide corridors for utilities. Those uses which are inconsistent with this purpose are prohibited unless otherwise approved by the city through such processes as the right-of-way use permit or parade authorization process. Any use of a city street or alley in violation of this section shall constitute a traffic infraction. Any person found to have violated this section shall be subject to a fine of up to $500.00. (Ord. 1912, 1992).

11.08.220 Regulations not exclusive.

The provisions of this chapter imposing time limits on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times. (Ord. 1912, 1992).

11.08.230 Enforcement of parking regulations.

(1) The parking regulations set forth in this chapter shall be enforced by the city's police officers and the city's parking enforcement officers. However, it shall be the primary responsibility of the parking enforcement officer to enforce this chapter, as well as any other parking regulations adopted by the city. The parking enforcement officer shall be an employee of the city under the direction of the city's police department.

(2) Failure to perform any act required or the performance of any act prohibited by this chapter is designated as a parking violation and shall not constitute an infraction or a criminal offense, unless otherwise specifically indicated in this chapter.

(3) City police officers and city parking enforcement officers have the authority to issue a notice of parking violation when the parking violation is committed in the officer's presence.

(4) If any vehicle is found parked, standing or stopped in violation of this chapter or otherwise violates the provisions of this chapter, the officer finding the vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of parking violation. A notice of parking violation represents a determination that a parking violation has been committed. The determination will be final unless contested as provided in this chapter.

(5) The police officers and parking enforcement officers in charge of the enforcement of the parking regulations of the city shall, and are authorized to, mark such vehicles parked, standing or stopped from time to time to aid in the enforcement of this chapter. Such mark shall be by chalk upon the tires of said vehicles or by some other convenient method that will not be injurious to or damage such vehicle. The marks so placed shall not be interfered with, concealed, obliterated or erased by any person other than a police officer or parking enforcement officer, while the same shall remain parked or standing at the place where so marked. It shall constitute a parking violation to interfere with, conceal, obliterate or erase any mark in violation of this section. (Ord. 1912, 1992).

11.08.240 Registered owner responsible – Presumption.

(1) Every person in whose name a vehicle is registered shall be responsible for any violation of this chapter caused by the parking, standing or stopping of said vehicle in violation hereof. It shall be no defense that the vehicle was parked illegally by another, unless proof is presented that said vehicle had been stolen and had not been returned to the registered owner by the date of the violation. This section shall not apply to registered owners transferring vehicle ownership who have complied with RCW 46.52.104 prior to the date of the violation.

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(2) In any parking violation case involving a violation of this chapter relating to the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the notice of parking violation was stopping, standing or parking in violation of any such provision of this chapter, together with proof of registered ownership of the vehicle at the time of the violation, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred provided the procedure for issuing a parking violation set forth in this chapter has been followed. (Ord. 1912, 1992).

11.08.250 Penalties.

(1) Unless specifically set forth elsewhere in this chapter, the penalties for each violation of the provisions of this chapter shall be:

(a) Overtime parking: $40.00;

(b) Unauthorized parking in alley: $40.00;

(c) Parking in a disabled space without requisite permit, decal or license: $175.00;

(d) Parking, stopping or standing in fire lane in violation of MMC 11.08.130: $175.00;

(e) Interfering with, concealing, obliterating or erasing marks in violation MMC 11.08.230(5): $40.00;

(f) Unattended vehicles in violation of RCW 46.61.600(1): $25.00;

(g) Use of streets and alleys: $250.00;

(h) All other violations of this chapter: $40.00.

(2) If no response or payment is made within 15 calendar days from the date of issuance of the notice of parking violation, the penalty for each violation may be referred to a collection agency 30 days from the due date, or 15 days after the penalty is due, pursuant to RCW 3.02.045 and 19.16.500. The violator may be liable for any and all collection costs.

(3) The penalties set forth in subsection (1) of this section will be reduced in half if the parking violation is paid in person to the municipal court clerk's office during the city's business hours within 24 hours of the time and date of issuance. In the event the municipal court clerk's office is not open for business the day following the date of issuance, the violator may make payment on the next city business day following the issuance of the ticket and still receive the reduced penalty.

(4) Payment of all parking violations shall be made to the municipal court clerk's office. All proceeds derived from individuals charged with a violation of any of the provisions of this chapter shall be paid into the general fund of the city.

(5) Notwithstanding the language set forth in subsection (3) of this section, if a vehicle or a violator has been cited for five or more violations of this chapter and/or any other parking ordinance of the city within a six-month period, that vehicle or violator will not be eligible for reduction in the parking violation penalty set forth in subsection (3) of this section for a period of 180 days. (Ord. 2074 § 4, 1996; Ord. 1912, 1992).

11.08.260 Failure to comply with notice of parking violation.

(1) A request for a hearing or, in the alternative, payment shall be made within 15 calendar days of the date of issuance of parking violation.

(2) If the violator wishes to contest the notice of violation, the person shall request a hearing in writing to the municipal court. The court shall notify the violator in writing of the time, place and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(3) If no request for a hearing or payment is made within 15 calendar days of the date of issuance of the notice of parking violation, the municipal court clerk's office shall mail by first class mail a delinquency notice to the registered owner of the vehicle to which the notice was affixed, informing the owner of the violation and of the city's intent to commence collection procedures.

(4) If no request for hearing or payment is made within 15 calendar days of the date of issuance of the parking violation, the registered owner of the vehicle is declared delinquent and the city may bring suit for judgment on the penalties plus costs of suit. The city may also turn this matter over to a collection agency.

(5) If no request for a hearing or payment is made within 15 calendar days of the date of issuance of the notice of parking violation, or if no payment is made within 15 calendar days of a decision by the municipal court judge affirming all or a part of a monetary penalty, or upon failure to appear for such hearing, the municipal court clerk may assess an additional penalty of $25.00 pursuant to RCW 46.63.110(3).

(6) If no request for a hearing or payment is made within 15 calendar days of the date of issuance of the notice of parking violation, or if no payment is made within 10 calendar days of a decision by the municipal court judge affirming all or a part

of a monetary penalty, or upon failure to appear for such hearing, the municipal court clerk may forward an abstract of the parking violation record to the Department of Licensing for two or more such violations as provided by RCW 46.20.270(3); provided, any appeal to the superior court shall stay the forwarding of said abstract to the Department of Licensing as provided herein. (Ord. 2074 § 5, 1996; Ord. 1912, 1992).

11.08.270 Hearing to contest validity of notices or explain mitigating circumstances.

(1) Any individual receiving a notice of parking violation may explain mitigating circumstances or may contest the notice issued by requesting a hearing thereon with the municipal court judge.

(2) Upon receipt of a timely request for a hearing as is identified in MMC 11.08.260, the municipal court or designee shall set the matter for hearing on a municipal court mitigation calendar.

(3) The municipal court judge may, in his discretion, affirm, nullify or modify the notice of parking violation. In addition, the municipal court judge may, in his discretion, modify, waive, reduce or suspend the monetary penalty described for the violation. (Ord. 1912, 1992).

11.08.280 Municipal court judge administrative hearing examiner.

(1) Authority. The city's municipal court judge and any judge pro tem is hereby specifically authorized to conduct hearings as set forth in this chapter and to affirm, nullify, modify, reduce or suspend a parking violation and any monetary penalty related thereto.

(2) Jurisdiction. The municipal court judge will be responsible for presiding over all hearings required by this chapter as well as other additional administrative matters over which he/she may be requested to preside.

(3) Powers. For purposes of this chapter, the municipal court judge shall have the power to:

(a) Administer oaths and affirmations, examine witnesses and receive evidence;

(b) Issue subpoenas upon the request of any party. The city attorney and the attorney of record are also authorized to issue subpoenas. When so required, the applicant for the subpoena shall show to the satisfaction of said individual the general relevance and reasonable scope of the evidence sought;

(c) Rule on offers of proof and receive relevant evidence;

(d) Regulate the course of the hearing, including imposition of penalties for disruption of the orderly process or refusal to comply with lawful orders of the municipal court judge;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(f) Make decisions which can be incorporated into findings of fact, conclusions of law and order of the municipal court judge and enter orders of default and consent orders;

(g) Appoint a pro tem to act in the judge's absence; and

(h) Establish rules and procedures to conduct hearings consistent herewith.

(4) Contested Cases. In contested cases:

(a) The municipal court judge may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The municipal court judge shall give effect to the rules of privilege recognized by law. The municipal court judge may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence;

(b) All evidence including, but not limited to, records and documents in the possession of the municipal court judge of which he/she desires to avail himself/herself shall be offered and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference;

(c) Every party shall have the right of cross examination of witnesses who testify and shall have the right to submit rebuttal evidence;

(d) The municipal court judge may take notice of judicially recognizable facts.

(5) Notice to be Given. The municipal court judge shall see that interested parties are given proper notice of hearing.

(6) Judicial Review.

(a) The decision of the municipal court judge shall be final, subject only to appeal to Snohomish County Superior Court;

(b) Proceedings for review under this section shall be instituted by filing a petition in Superior Court. All petitions shall be filed within 30 days after the final decision of the municipal court judge. Copies of the petition shall be served on the city as in civil actions.

(c) The court may affirm the decision of the municipal court judge or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the petitioner may have

been prejudiced because the administrative findings, inferences, conclusions or decisions are:

(i) In violation of constitutional provisions, or

(ii) In excess of the statutory authority or jurisdiction of the municipal court judge. (Ord. 1912, 1992).

11.08.290 Rules and regulations.

The municipal court clerk's office and the city's police department are authorized to jointly promulgate rules and regulations necessary to administer this chapter and to receive and account for all sums paid under this chapter. (Ord. 1912, 1992).

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Chapter 11.12

CRUISING ON STATE AVENUE

Sections:

11.12.010 Definitions.
11.12.020 Cruising prohibited.
11.12.030 Designation of no-cruising zones.
11.12.040 Posting of signs and establishment of traffic control points.
11.12.050 Presumption created.
11.12.060 Vehicles exempt.
11.12.070 Penalty for violation.

11.12.010 Definitions.

The following terms when used in this chapter shall be construed to mean as follows:

(1) "Cruising" means driving or permitting a motor vehicle under an individual's care, custody or control, to be driven past a traffic control point in a no-cruising zone more than two times in the same direction within a two-hour period between 11:00 p.m. and 7:00 a.m.

(2) "Traffic control point" means any stationary location or locations as may be established by the police department in a no-cruising zone for purposes of monitoring compliance with this chapter. (Ord. 1960, 1993).

11.12.020 Cruising prohibited.

It shall constitute a traffic infraction for any person to operate a motor vehicle, or permit a motor vehicle under his care, custody or control to be operated, for purposes of cruising in a designated no-cruising zone. (Ord. 1960, 1993).

11.12.030 Designation of no-cruising zones.

(1) The following areas are hereby designated as no-cruising zones:

State Avenue from First Street N.E. to 100th Street N.E.

(2) On the major streets or alleys of a no-cruising zone there shall be posted a sign which shall read substantially as follows:

NO CRUISING AREA
City Ordinance No. 1960
Maximum Penalty $1,000.00
and/or 90 Days' Jail

(Ord. 1960, 1993).

11.12.040 Posting of signs and establishment of traffic control points.

The chief of police of the city, or his designee, is authorized to place such signs as are permitted by this chapter, and to establish traffic control points as may be deemed necessary or desirable in the enforcement of this chapter. No person, without lawful authority to do so, shall remove, damage, obstruct or in any way interfere with such posted signs. (Ord. 1960, 1993).

11.12.050 Presumption created.

It shall be presumed that the driver of a motor vehicle which passes a traffic control point the third time within two hours, in violation of MMC 11.08.020, was the person who drove, or who had under his care, custody or control, the motor vehicle which passed the traffic control point on the first or second occasion within said two-hour period of time. (Ord. 1960, 1993).

11.12.060 Vehicles exempt.

The following vehicles shall be exempt from this chapter:

(1) Any publicly owned vehicle of any city, county, public district, state or federal agency;

(2) Any vehicle licensed for public transportation including, but not limited to, buses and taxi cabs;

(3) Any in-service emergency vehicle;

(4) Any vehicle being driven by a person who is a resident of or business operator of the regulated cruising area, or any vehicle being driven within the regulated cruising area for necessary commercial or medical reasons. (Ord. 1960, 1993).

11.12.070 Penalty for violation.

Cruising is a misdemeanor and may be punished by a fine not to exceed $1,000 or by imprisonment in jail for not more than 90 days or by both such fine and imprisonment. (Ord. 1960, 1993).

Chapter 11.14

MOTORIZED SCOOTERS

Sections:

11.14.010 Definitions.
11.14.020 Rules, regulations and requirements for operation of motorized foot scooters.
11.14.030 Unsafe use prohibited – Penalties – Enforcement.
11.14.040 Severability.

11.14.010 Definitions.

(1) "Motorized foot scooter" means a device with no more than two 10-inch or smaller diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion.

(2) "Child" or "minor child" means any person under 18 years of age.

(3) "Parent" means a person who is a natural parent, adoptive parent, stepparent, or foster parent of a juvenile.

(4) "Guardian" means (a) a person who, under court order, is the guardian of the person of a juvenile; or (b) a public or private agency with whom a juvenile has been placed by a court; or (c) a person who is at least 18 years of age and authorized by a parent or guardian to have the care and custody of a juvenile. (Ord. 2544, 2004).

11.14.020 Rules, regulations and requirements for operation of motorized foot scooters.

(1) It is unlawful to operate a motorized foot scooter upon any sidewalk, walkway or public trail, or any other place where motorized vehicles are prohibited within the city of Marysville. No person shall operate a motorized foot scooter on any city-owned property. No person shall operate a motorized foot scooter in any city park.

(2) Motorized foot scooters may only be operated on streets that are a posted speed limit of 25 miles per hour or less. However, it is unlawful to operate motorized foot scooters on State Avenue and 4th Street.

(3) Motorized foot scooters may not exceed the posted speed limit on a street and shall in all circumstances be operated at a speed limit of 25 hours or less.

(4) Motorized foot scooters shall operate within a bicycle lane if a bicycle lane exists.

(5) Any person operating a motorized foot scooter shall obey all rules of the road applicable to vehicle and pedestrian traffic, as well as the instructions of official traffic signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer or construction flagger.

(6) All left turns by the operator of a motorized scooter shall be made as a pedestrian, on foot, crossing the roadway in the crosswalk if one is available. To make a left turn, the operator of a motorized foot scooter shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and shall cross the roadway on foot, and shall be subject to the restrictions applicable to pedestrians.

(7) Crossing an arterial street or street designated with a maximum speed limit greater than 25 miles per hour shall be as a pedestrian, on foot, crossing the roadway in the crosswalk if one is available. To cross an arterial or a street designated with a maximum speed limit greater than 25 miles per hour, the operator of a motorized foot scooter shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and shall cross the roadway on foot, subject to the restrictions applicable to pedestrians.

(8) Every motorized foot scooter when in use during the hours of darkness as defined in RCW 46.37.020 shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the state patrol which shall be visible from all distances up to 600 feet to the rear when directly in front of the lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. A light-emitting diode flashing taillight visible from a distance of 500 feet to the rear may also be used in addition to the red reflector.

(9) It is unlawful to operate a motorized foot scooter with any passenger other than the operator.

(10) Age Requirements and Restrictions.

(a) All persons age 16 and above shall be subject to rules and regulations of this chapter/ordinance.

(b) All persons under age 16 may use a motorized foot scooter only under the direct visual supervision of a parent or guardian and subject to the rules and regulations of this chapter/ordinance.

(11) Parental Responsibility. It is unlawful for any parent, guardian or other person having control or custody of a minor child to allow said child to operate a motorized foot scooter in violation of this chapter.

A parent or guardian is responsible for requiring that a child under the age of 16 years old to wear an approved bicycle or motorcycle helmet which has the neck or chin strap of the helmet securely fastened while operating a motorized foot scooter.

(12) Motorized foot scooters shall at all times be equipped with a muffler in good working order so as to prevent excessive or unusual noise. Use of any cutout, bypass, or similar muffler elimination device is prohibited and is unlawful.

(13) The operator of a motorized foot scooter shall wear an approved bicycle or motorcycle helmet. For purposes of this section, "motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chin strap type retention system, with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation. (Ord. 2544, 2004).

11.14.030 Unsafe use prohibited – Penalties – Enforcement.

(1) It is unlawful to operate a motorized foot scooter on a public roadway, sidewalk or on public property in a manner that could cause harm to the user, other persons or property, or in such manner that violates any civil traffic laws, criminal laws, or the provisions of this chapter.

(2) Penalties.

(a) For violations of this chapter for all age groups:

(i) The officer may in the officer's discretion choose to issue a warning.

(ii) Any person violating any provision of this chapter shall be guilty of a traffic infraction and shall be punished by the imposition of a monetary penalty of not more than $100.00, exclusive of statutory assessments.

(iii) In addition, violation of any criminal laws and additional civil traffic laws maybe cited as such upon officer discretion.

(b) Alternate Penalty for Children Under the Age of 18. In lieu of the penalties described above, a police officer may, in his/her discretion, utilize the following penalty for violations by minor children. For the purposes of this section, the city council finds that there is a compelling governmental interest in imposing the following discretionary penalty section for minor children, in order to encourage parental and guardian intervention and responsibility for the violation of this chapter by minor children. The city further finds that impoundment is more likely to prevent repeat offenses by minors than the imposition of monetary penalties.

The arresting officer may take into custody the motorized scooter and hold for safekeeping for 30 days. Further, the officer may in the officer's discretion cite child's parent or guardian for violation of the parental responsibility section of this chapter and shall include a civil fine, not to exceed $100.00 issued to the parent or guardian.

Motorized foot scooters unclaimed after 60 days will be treated as provided in Chapter 63.32 RCW as unclaimed property in the hands of city police. (Ord. 2544, 2004).

11.14.040 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 2544, 2004).

Chapter 11.16

REGULATORY SIGNS AND ZONES

Sections:

11.16.010 Establishment of regulatory signs and zones.

11.16.010 Establishment of regulatory signs and zones.

For the protection of public safety, and to maintain the most efficient use of public streets, the city engineer, or designee, may provide for restricted parking zones, safety zones, bus zones, loading zones, school zones and crossings, pedestrian crosswalks and the erection of signs regulating vehicle and pedestrian use of public right-of-way per the requirements of the current edition of the Federal Highway Administration's Manual of Uniform Traffic Control Devices and/or the City of Marysville Engineering Design and Development Standards.

The decision of the city engineer, or designee, may be appealed to the hearing examiner per the requirements of Chapter 15.11 MMC. (Ord. 2367, 2001; Ord. 1562 § 2, 1987; Ord. 431, 1957; Ord. 415 § 5, 1955).

Chapter 11.24

RAILWAY TRAINS AND CROSSINGS

Sections:

11.24.020 Obstructing streets – Maximum speed.

11.24.020 Obstructing streets – Maximum speed.

It shall be unlawful for the directing officer or the operator of any steam, diesel, or electric railway train or car to direct the operation of or to operate the same in such a manner as to prevent or interfere with the use of any street for the purposes of travel for a period of time longer than five consecutive minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching. It shall be unlawful to operate a steam, electric or diesel railway train or car at a rate of speed greater than 25 miles per hour within the corporate limits of the city of Marysville. (Ord. 940 § 9, 1977; Ord. 415 § 15, 1955).

Chapter 11.36

ABANDONED, UNAUTHORIZED AND JUNK VEHICLES

Sections:

11.36.010 Abandoned, unauthorized and junk vehicles regulated by MTO.
11.36.020 Administrative hearing officer.
11.36.030 Abandonment and removal of junk or unauthorized motor vehicles or parts thereof from private property.
11.36.040 Penalties.

11.36.010 Abandoned, unauthorized and junk vehicles regulated by MTO.

All abandoned, unauthorized and junk vehicles shall be controlled by the applicable provisions of the MTO as adopted by MMC 11.04.010, with the exception of those vehicles on private property which constitute a public nuisance which shall be regulated by this chapter. (Ord. 1989 § 6, 1994; Ord. 1769 § 1, 1990; Ord. 1593 § 2, 1988).

11.36.020 Administrative hearing officer.

All hearings required under this chapter, and those required by RCW 46.20.435 and WAC 308-61-168, shall be conducted by an administrative hearings officer who shall be the judge, or judge pro tem, of the Marysville municipal court. A decision made by such administrative hearings officer shall be final. (Ord. 1593 § 2, 1988).

11.36.030 Abandonment and removal of junk or unauthorized motor vehicles or parts thereof from private property.

(1) The storage or retention of an unauthorized vehicle, as defined in RCW 46.55.010(12), or a junk vehicle as defined in RCW 46.55.010(4), or parts of a junk vehicle, on private property is a public nuisance subject to removal and impoundment by the city. The police shall inspect and investigate complaints relative to unauthorized or junk vehicles, or parts thereof, on private property. Upon discovery of such nuisances, the police department shall give notice in writing to the last registered owner of the vehicle, and to the property owner of record, that within 10 days of such notice either the nuisance must be abated or a written request for a hearing before Marysville municipal court must be filed with the police chief. In the event such notice is not complied with, the vehicle will be removed by the city as provided below.

(2) If a request for a hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that the identification numbers are not available to determine ownership.

(3) The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the court shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner.

(4) Costs of removal of vehicles or parts thereof under this section shall be assessed against the last registered owner of the vehicle or automobile hulk if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle or automobile hulk has complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored, unless the property owner establishes the facts set forth in subsection (2) of this section.

(5) This section shall not apply to:

(a) A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(b) A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130.

(6) After notice has been given of the city's intent to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or parts thereof shall be removed at the request of a police officer and disposed of to a licensed motor vehicle wrecker or hulk hauler with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked. (Ord. 1769 § 2, 1990; Ord. 1593 § 2, 1988).

11.36.040 Penalties.

Any person violating any provision of this chapter shall be guilty of an infraction and shall be punished by a penalty of up to $250.00 for each day that the violation continues. (Ord. 1593 § 2, 1988).

Chapter 11.37

TOW TRUCK BUSINESSES USED BY THE CITY

Sections:

11.37.010 Purpose of provisions.
11.37.020 Definitions.
11.37.030 List of qualified tow truck operators.
11.37.040 Qualifications.
11.37.050 Practices and procedures.
11.37.060 Appeals.

11.37.010 Purpose of provisions.

The purpose of this chapter is to provide for impartial referral of city business to tow truck operators who are best qualified to serve the interests of persons within the city limits and to provide for regulations relating to impound and storage facilities for tow truck businesses whether qualified for referral of city business or not. This chapter supplements the regulation of tow truck operators by the Washington State Department of Licensing and the Washington State Patrol pursuant to Chapter 46.55 RCW. Any inconsistencies between state regulations and this chapter shall be resolved in favor of the state regulations. (Ord 2147 § 1, 1997; Ord. 1776, 1990).

11.37.020 Definitions.

(1) "Police department" means the city of Marysville Police Department, and any of its uniformed officers, including on-duty reserve officers.

(2) "Tow truck" means a motor vehicle which is equipped for and used in the business of towing vehicles with equipment as approved by the Washington State Patrol.

(3) "Tow truck business" means the transporting upon public streets and highways of the city of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(4) "Tow truck operator" means any person who engages in the impounding, transporting or storage of unauthorized, or the disposal of, abandoned vehicles. (Ord. 1776, 1990).

11.37.030 List of qualified tow truck operators.

(1) The police department shall establish and maintain a list of tow truck operators who meet the qualifications of this chapter and who are willing to accept police impounds and police referrals subject to the conditions of this chapter.

(2) Whenever police officers are called upon to impound a vehicle or refer a vehicle owner to a tow

truck operator, the officers shall use the police department list of qualified tow truck operators referred to herein. The officers shall impartially rotate through all operators on the list and shall attempt to provide an equal amount of business to all such operators; provided, that nothing herein shall be construed as granting any tow truck operator a vested right to do police impounds or other police-related towing services.

(3) Nothing herein shall preclude any vehicle owner from requesting services from a tow truck operator of such owner's choice, unless, in the opinion of the police department, the accommodation of such request would result in undue delay or the maintenance of a hazardous situation or condition.

(4) The list of qualified tow truck operators shall be reviewed by the police department at least annually to determine if the operators are still in compliance with the requirements of this chapter. A willful violation of any of the requirements of this chapter shall be cause for the police chief to suspend a tow truck operator from the list. Written notice of such suspension, and the terms thereof, shall be immediately sent to the tow truck operator. If any tow truck operator suffers three or more suspensions, the police chief may permanently remove such operator from the list. A suspension or removal from the list is subject to appeal as provided in MMC 11.37.060. (Ord. 1776, 1990).

11.37.040 Qualifications.

In order to qualify, and to maintain qualification, for the police department's list or to conduct any business within the city limits, a tow truck business must comply with or satisfy the following requirements:

(1) The tow truck business must hold a current business license from the city of Marysville. Provided, tow truck businesses located outside of the Marysville city limits while towing vehicles at the request of the owner of said vehicle into, out of or within the city of Marysville shall not be required to have a Marysville business license.

(2) The tow truck operator must have a current registration with the Department of Licensing.

(3) The tow truck business must have a registered office address within the city limits of the city of Marysville.

(4) The tow truck business must maintain a secure storage/redemption yard within the city limits of the city of Marysville. Such storage/redemption yard shall comply with the Department of Licensing requirements for registered disposers (WAC 308-61-110). All vehicles impounded within the city of Marysville must be taken to said yard unless otherwise requested by the vehicle owner. Repeated losses or thefts of property from stored vehicles may result in suspension or removal of the tow truck operator from the police department's list.

(5) The tow truck business must have at least two tow trucks available for Marysville business; provided, that any tow truck business which otherwise qualified under this chapter on May 1, 1990, shall have a period of one year thereafter to acquire a second tow truck. Such tow trucks shall have a minimum manufacturer's gross weight of 18,000 pounds and shall be equipped with dual tires on the rear axle or duplex-type tires, sometimes referred to as "super single," with a load rating that is comparable to the dual-tire rating. Tow trucks shall meet all regulations of the Department of Licensing; provided, however, tow truck businesses that do not wish to qualify for the police department's list but otherwise wish to conduct tow truck business within the city limits shall not be required to have at least two tow trucks available for Marysville business; provided, further, tow truck business who tow vehicles at the request of the owner of said vehicle shall not be required to comply with subsections (3), (4) and (5) of this section. (Ord. 2320 § 1, 2000; Ord. 2147 § 2, 1997; Ord. 1776, 1990).

11.37.050 Practices and procedures.

In order to continue its qualified status on the police department's list, a tow truck operator shall comply with the following practices and procedures with respect to all business obtained through police department calls or referrals:

(1) The tow truck operator must consistently abide by the fee schedule filed with the Department of Licensing and there shall be no supplemental fees or additional charges which do not appear on the schedule.

(2) The response time between the initial telephone call from the police department to a tow truck operator, and the arrival of the tow truck at the location of a vehicle within the city, shall not exceed 18 minutes between the hours of 8:00 a.m. to 5:00 p.m., and shall not exceed 25 minutes between the hours of 5:00 p.m. to 8:00 a.m. If for any reason a tow truck operator is unable, or fails, to respond within such time limits, it may forfeit its turn on the rotation list and the police department may contact another tow truck operator. Consistent refusal or failure to respond to calls from the police department may result in suspension or removal from the list.

(3) A tow truck operator shall advise the police department when it receives a private call for a tow and the circumstances indicate that the tow is for a vehicle which has been involved in an accident or other such incident on a public roadway, or when an accident or incident on private property has resulted in bodily injury or death.

(4) A tow truck operator will notify the police department before moving any vehicle involved in an accident or incident on a public highway, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs or is otherwise incapacitated.

(5) When the police department is in charge of an accident scene or other such incident, a tow truck operator shall not respond to such scene unless its services have been specifically requested by the police department or by the driver/owner or his agent.

(6) The tow truck operator shall be available 24 hours a day for the purpose of receiving calls and releasing vehicles.

(7) The tow truck operator shall notify the police department of the release of impounded vehicles within 24 hours after the release of such vehicles. Notification to the police department will be made in such manner as is prescribed by the chief of police.

(8) The interiors of the tow trucks will be reasonably clean.

(9) Tow truck drivers will clean accident/incident scenes of all glass and debris.

(10) All equipment used in conjunction with a tow truck must be in compliance with the manufacturer's basic boom rating. (Ord. 1776, 1990).

11.37.060 Appeals.

If the police chief suspends or removes a tow truck operator from the city's list, as provided in this chapter, written notice of the same shall be immediately sent to the tow truck operator. The suspension or removal shall not be effective for a period of 10 days following the date thereof. If within the 10-day period, the tow truck operator files a written appeal with the city clerk, the effectiveness of the order of suspension or removal shall be stayed until the city council holds a hearing on the appeal. The tow truck operator shall be given notice of the hearing date. The city council may affirm, modify or reverse an order of suspension or removal. The decision of the city council shall be immediately effective and shall be final. (Ord. 1776, 1990).

Chapter 11.46

REGULATIONS ON CERTAIN STREETS

Sections:

11.46.010 Alleys – Direction of travel.
11.46.050 Left turns on State Avenue.
11.46.120 Closure of 57th Drive N.E.

11.46.010 Alleys – Direction of travel.

(1) Except as provided below, all alleys in the city which intersect with State Avenue are open for both eastbound and westbound travel; provided, that access to said alleys from State Avenue shall be prohibited except in the case of the alley in the 400 block running between State Avenue and Delta Avenue.

(2) The First Street alley is declared to be one-way eastbound from 47th Avenue N.E. to State Avenue. (Ord. 1675, 1989; Ord. 1052, 1979; Ord. 1032, 1979).

11.46.050 Left turns on State Avenue.

No left turn shall be permitted onto State Avenue from the north exit of the K-Mart Shopping Center parking lot located at 9623 State Avenue. (Ord. 1989 § 8, 1994; Ord. 1301, 1983; Ord. 1264, 1982; Ord. 717 § 1, 1970).

11.46.120 Closure of 57th Drive N.E.

(1) That portion of 57th Drive N.E. within the plat of Parkview Estates is closed for all motor vehicle traffic, with the exception of officially designated and licensed emergency vehicles. It is unlawful for any person to drive a motor vehicle on said portion of 57th Drive N.E., except for such officially designated and licensed emergency vehicles.

(2) Upon its own motion, or upon receipt of a petition signed by a majority of the property owners in the Plat of Parkview Estates and a majority of the property owners in the Plat of Parkside Manor, the city council shall call for a public hearing to consider opening 57th Drive N.E. to all motor vehicles. Notice of said public hearing shall be published not less than 10 days prior to the date of said hearing, and shall be posted in at least three conspicuous places within each of the plats. At the conclusion of said public hearing and all continuances thereof, the city council may, by ordinance, open 57th Drive N.E. to all motor vehicles.

(3) Any person who is convicted of driving a motor vehicle on 57th Drive N.E. in violation of this section is guilty of a misdemeanor and shall be punished by a fine of not more than $250.00. (Ord. 1724, 1989; Ord. 1023 §§ 2 – 4, 1979).

Chapter 11.52

COMMUTE TRIP REDUCTION (CTR) PLAN

Sections:

11.52.010 Purpose.
11.52.020 Definitions.
11.52.030 Marysville commute trip reduction (CTR) plan.
11.52.040 Responsible city department.
11.52.050 Applicability.
11.52.060 New affected employers.
11.52.070 Change in status as an affected employer.
11.52.080 Requirements for employers.
11.52.090 CTR program description requirements.
11.52.100 Mandatory program elements.
11.52.110 Additional program elements.
11.52.120 Record keeping.
11.52.130 CTR program.
11.52.140 CTR annual progress reports.
11.52.150 Document review.
11.52.160 Modification of CTR program elements.
11.52.170 Extensions.
11.52.180 Implementation of employer's CTR program.
11.52.190 Credit for transportation demand management efforts.
11.52.200 Enforcement.
11.52.210 Penalties.
11.52.220 Exemptions and goal modifications.
11.52.230 Appeals.
11.52.240 Severability.

11.52.010 Purpose.

The city enacts the ordinance codified in this chapter to obtain any preference that will be given to or achieved by the city of Marysville from the integration of services with and between RTA, rail, Park 'n Ride, and other forms of local and regional transportation. The city wishes to provide integrated transportation services and meaningful facilities in the city to reduce now and in the future impacts upon individual employers and the city. (Ord. 2152 § 1, 1997).

11.52.020 Definitions.

For the purpose of this chapter, the following definitions shall apply in interpretation and enforcement of this chapter:

"Affected employee" means a full-time employee who begins his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least 12 continuous months; and the employee will only be counted at his or her primary worksite. Seasonal agricultural employees, including seasonal employees of processors of agricultural products are excluded from the count of affected employees.

"Affected employer" means an employer that employs 100 or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least 12 continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

"Alternative mode" means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work weeks if they result in reducing commute trips.

"Alternative work schedules" mean programs such as compressed work weeks that eliminate work trips for affected employees.

"Base year" means the period from January 1, 1998, through December 31, 1998, on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based.

"Carpool" means a motor vehicle occupied by two to six people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

"Commute trip" means a trip made from a worker's home to a worksite with a regularly scheduled arrival time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.

"CTR plan" means the city's plan and this chapter which is intended to regulate and administer the CTR programs of affected employers within its jurisdiction.

"CTR program" means an employer's strategies to reduce affected employees' SOV use and VMT per employee.

"CTR zone" means an area, such as a census tract or combination of census tracts, within Snohomish County characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of SOV commuting.

"Commuter matching service" means a system that assists in matching commuters for the purpose of commuting together.

"Compressed work week" means an alternative work schedule, in accordance with employer pol-

icy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.

"Custom bus/buspool" means a commuter bus service arranged specifically to transport employees to work.

"Dominant mode" means the mode of travel used for the greatest distance of a commute trip.

"Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, or private, that employs workers.

"Exemption" means a waiver from CTR program requirements granted to an employer by the city based on unique conditions that apply to the employer or employment site.

"Flex-time" is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours to facilitate the use of alternative modes.

"Full-time employee" means a person, other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

"Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter, and is working collaboratively with the city to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed upon length of time.

"Implementation" means active pursuit by an employer toward the goals of this chapter as evidenced by appointment of a transportation coordinator, and commencement of other measures according to their CTR program and schedule.

"Mode" means the type of transportation used by employees, such as single occupant motor vehicle, ride-share vehicle (carpool, vanpool), transit, ferry, bicycle, and walking.

"Peak period" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

"Peak period trip" means any employee trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

"Proportion of single-occupant vehicle trips" or "SOV rate" means the number of commute trips over a set period made by affected employees in SOVs divided by the number of affected employees working during that period.

"Single-occupant vehicle (SOV)" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.

"Single-occupant vehicle (SOV) trips" means trips made by affected employees in SOVs.

"Single worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way, and at which there are 100 or more full-time employees of one or more employers, who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays, for at least 12 continuous months.

"Telecommuting" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a workplace closer to home, reducing the distance traveled in a commute trip by at least half.

"Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero vehicle trips.

"Transportation manager" means the planning director, or his or her designee who will be responsible for administering the city's commute trip reduction activities.

"Transportation management organization (TMO)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMO may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

"Vanpool" means a vehicle occupied by seven to 15 people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero vehicle trips.

"Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period divided by the number of affected employees during that period.

"Week" means a seven-day calendar period, starting on Monday and continuing through Sunday.

"Weekday" means any day of the week except Saturday or Sunday.

"Writing," "written," or "in writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery. (Ord. 2152 § 1, 1997).

11.52.030 Marysville commute trip reduction (CTR) plan.

The 1998 Marysville CTR Plan is wholly incorporated herein by reference and enacted as the Marysville commute trip reduction plan. (Ord. 2152 § 1, 1997).

11.52.040 Responsible city department.

The planning director is hereby authorized and directed to enforce all the provisions of this chapter. The planning director may prepare and require the use of such forms and procedures as are essential to the administration of this chapter. (Ord. 2152 § 1, 1997).

11.52.050 Applicability.

The provisions of this chapter shall apply to any affected employer at any single worksite within the corporate limits of the city of Marysville.

(1) A notice of availability of a summary of this chapter, a notice of the requirements and criteria for affected employers to comply with this chapter, and subsequent ordinance revisions shall be published at least once in Marysville's official newspaper not more than 30 days after passage of the ordinance codified in this chapter;

(2) Affected employers located in the city are to receive written notification within 30 days of passage of the ordinance codified in this chapter that they are subject to this chapter. Such notice shall be by certified mail, return receipt requested, addressed to the company's chief executive officer, senior official, or CTR manager at the worksite;

(3) Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance codified in this chapter and are either notified or identify themselves to the city within 180 days of the passage of the ordinance will be granted an extension to assure the employers have up to 150 days to develop and submit a CTR program;

(4) Affected employers that have not been identified or do not identify themselves within 180 days of the passage of the ordinance codified in this chapter and do not submit a CTR program within 180 days from the passage of the ordinance are in violation of this chapter. (Ord. 2152 § 1, 1997).

11.52.060 New affected employers.

Employers that meet the definition of "affected employer" in this chapter must identify themselves to the city within 180 days of either moving into the boundaries of Marysville or growing in employment at a worksite to 100 or more affected employees. Such employers shall be granted a minimum of 150 days to develop and submit a CTR program. Employers that do not identify themselves within 180 days of becoming an affected employer are in violation. New affected employers shall have two years to meet the first CTR goal of 20 percent; four years to meet the second goal of 25 percent; and six years to meet the third goal of 35 percent from the time they begin their program. (Ord. 2152 § 1, 1997).

11.52.070 Change in status as an affected employer.

Any of the following changes in an employer's status will change the employer's CTR program requirements:

(1) If an employer initially designated as an affected employer no longer employs 100 or more affected employees and expects not to employ 100 or more affected employees for the next 12 months, that employer is no longer an affected employer. The employer must notify the city in writing that it is no longer an affected employer;

(2) If the same employer returns to the level of 100 or more affected employees within the same 12 months, that employer will be considered an affected employer for the entire 12 months. The employer must notify the city in writing that it is an affected employer, and will be subject to the same program requirements as other affected employers; and

(3) If the same employer returns to the level of 100 or more affected employees 12 or more months after its change in status to an "unaffected" employer, that employer shall be treated as a new affected employer, and will be subject to the same program requirements as other new affected employers. (Ord. 2152 § 1, 1997).

11.52.080 Requirements for employers.

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and MMC 11.52.020, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV commute trips. The CTR program must include the manda-

tory elements described in MMC 11.52.100. The employer shall submit a description of its program to the city and provide an annual progress report to the city on employee commuting and progress toward meeting the SOV goals. (Ord. 2152 § 1, 1997).

11.52.090 CTR program description requirements.

(1) The CTR program description presents the strategies to be undertaken by an affected employer to achieve the commute trip reduction goals for 2000, 2002, and 2004. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR programs.

(2) At a minimum, the employer's description must include:

(a) General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;

(b) Number of employees affected by the CTR program;

(c) Documentation of compliance with the mandatory CTR program elements as described in MMC 11.52.100;

(d) Description of the additional elements included in the CTR program as described in MMC 11.52.110; and

(e) Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources. (Ord. 2152 § 1, 1997).

11.52.100 Mandatory program elements.

Each employer's CTR program shall include the following mandatory elements:

(1) Transportation Coordinator. The employer shall designate a transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. An affected employer with multiple sites may have one transportation coordinator for all sites;

(2) Information Distribution. Information about alternatives to SOV commuting shall be provided to employees at least once a year. Each employer's program description and annual report must report the information to be distributed and the method of distribution;

(3) Annual Progress Report. The CTR program must include an annual review of employee commuting and of progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file an annual progress report with the city in accordance with the format established by the city. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Within the report the employer should evaluate the effectiveness of the CTR program and if necessary, propose modifications to achieve the CTR goals. Survey information or approved alternative information must be provided in the year 2000, 2002 and 2004 annual reports. (Ord. 2152 § 1, 1997).

11.52.110 Additional program elements.

The employer's CTR program shall include additional elements needed to meet CTR goals. Elements may include, but are not limited to, one or more of the following:

(1) Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;

(2) Instituting or increasing parking charges for SOVs;

(3) Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;

(4) Provision of subsidies for transit fares;

(5) Provision of vans for vanpools;

(6) Provision of subsidies for carpools or vanpools;

(7) Permitting the use of the employer's vehicles for carpooling or vanpooling;

(8) Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

(9) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(10) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

(11) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(12) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

(13) Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes;

(14) Establishment of a program of alternative work schedules, such as a compressed work week, which reduce commuting; and

(15) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and guaranteed ride home services. (Ord. 2152 § 1, 1997).

11.52.120 Record keeping.

Affected employers shall include a list of the records they will keep as part of the CTR program they submit to the city for approval. Employers will maintain all records listed in their CTR program for a minimum of 24 months. The city and the employer shall agree on the recordkeeping requirements as part of the accepted CTR program. (Ord. 2152 § 1, 1997).

11.52.130 CTR program.

Not more than six months after the adoption of the ordinance codified in this chapter, or within six months after an employer qualifies under the provisions of this chapter, the employer shall develop a CTR program and shall submit to the city a written description of that program for review by the city. (Ord. 2152 § 1, 1997).

11.52.140 CTR annual progress reports.

Upon review of an employer's initial CTR program, the city shall establish the employer's annual reporting date, which shall not be less than 12 months from the day the program is submitted. Each year on the employer's reporting date, the employer shall submit to the city the annual CTR report. (Ord. 2152 § 1, 1997).

11.52.150 Document review.

The city shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for the rejection. If the employer does not receive written notification of extension of the review period for the CTR program or city comment on the CTR program or annual report within 90 days of submission, the employer's program or annual report is deemed accepted. The city may extend the review period up to 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days. (Ord. 2152 § 1, 1997).

11.52.160 Modification of CTR program elements.

Any affected employer may request modification of CTR program elements, other than the mandatory elements specified in this chapter, including recordkeeping requirements. Such request may be granted by the city if one of the following conditions exist:

(1) The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or

(2) The employer can demonstrate that compliance with the program elements would constitute an undue hardship. (Ord. 2152 § 1, 1997).

11.52.170 Extensions.

(1) An affected employer may request an extension not to exceed 90 days to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be made in writing no less than 30 days before the due date for which the extension is being requested. Requests must be made by certified letter, return receipt requested. Extensions may be granted for the following causes:

(a) There is insufficient staff to do the work;

(b) The program is extraordinarily complex due to substantial work force, multiple worksites or other factors;

(c) There are multiple employer participants on a single site and coordination of these employers has caused unanticipated delay;

(d) Any other reasonable cause as determined by the planning director.

(2) The city shall grant or deny the employer's extension request by certified letter, return receipt requested within 10 working days of receipt. If there is no response issued to the employer, an extension is automatically granted for 30 days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program elements shall not be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. (Ord. 2152 § 1, 1997).

11.52.180 Implementation of employer's CTR program.

The employer shall implement the approved CTR program not more than 180 days after the program was first submitted to the city. Implementation of the approved program modifications will occur within 30 days of the final decision or 180

days from submission of the CTR program or CTR annual report, whichever is greater. (Ord. 2152 § 1, 1997).

11.52.190 Credit for transportation demand management efforts.

(1) Leadership Certificate. As public recognition for their efforts, employers with VMT per employee and proportion of SOV trips lower than the zone average will receive a commute trip reduction certificate of leadership from the city.

(2) Credit For Programs Implemented Prior to the Base Year. Employers with successful transportation demand management (TDM) programs implemented prior to the 1998 base year may be eligible to apply for program exemption credit, which exempts them from most program requirements. When these employers apply for the program exemption credit in their initial 1998 CTR program descriptions, they shall be considered to have met the 1998 CTR goals if their VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the final base year zone values. This three percent point credit applies only to the 1998 CTR goals.

(3) Process to Apply for Program Exemption Credit. Affected employers may apply for program exemption credit for the results of past or current transportation demand management (TDM) efforts by applying to the city in their initial program description or as part of any other annual report. Application shall include results from a survey of employees, or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in guidelines issued by the State Commute Trip Reduction Task Force. (Ord. 2152 § 1, 1997).

11.52.200 Enforcement.

(1) Compliance. For purposes of this section, compliance shall mean fully implementing all provisions in an accepted CTR program or meeting or exceeding VMT and SOV goals of this chapter.

(2) Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of SOV trips shall be applied in determining requirements for employer CTR program modifications:

(a) If an employer meets either or both goals, the employer has satisfied the objective of the CTR plan and will not be required to modify the CTR program;

(b) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and MMC 11.52.020, but has not met or is not likely to meet the applicable SOV or VMT goal, the city shall work collaboratively with the employer to make modifications to the CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within 30 days;

(c) If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and MMC 11.52.020, and fails to meet the applicable SOV or VMT reduction goal, the city shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications or equivalent measures, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of certified return receipt. The city shall review the revisions and notify the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the city within 10 working days of the conference.

(3) Violations. The following constitute violations if the deadlines established in this chapter are not met:

(a) Failure to develop and/or submit on time a complete program, including:

(i) Employers notified or that have identified themselves to the city as affected employers within 180 days of the ordinance codified in this chapter being adopted and that do not submit a CTR program within 150 days from the notification or self-identification, or

(ii) Affected employers not identified or self-identified within 180 days of the ordinance codified in this chapter being adopted and that do not submit or implement a CTR program within 180 days from the adoption of the ordinance;

(b) Failure to make a good faith effort, as defined in RCW 70.94.534(2) or MMC 11.52.020; or

(c) Failure to modify a CTR program as defined in RCW 70.94.534(4) and this chapter. (Ord. 2152 § 1, 1997).

11.52.210 Penalties.

The following penalties apply:

(1) No major employer may be held liable for failure to reach the applicable SOV or VMT goal;

(2) Each day of failure to implement the CTR program shall constitute a separate violation. Any violation of this chapter shall be a civil infraction subject to a maximum penalty of $250.00 and enforced in accordance with the provisions of Chapter 4.02 MMC.

(3) An employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

(a) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

(b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531). (Ord. 2152 § 1, 1997).

11.52.220 Exemptions and goal modifications.

(1) Worksite Exemptions. An affected employer may request an exemption from all CTR program requirements for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of SOV trips and VMT per employee. Exemptions may be granted by the city during the annual program review process. The city shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

(2) Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. The city shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

(3) Modifications of CTR Program Goals.

(a) An affected employer may request that the city modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description and annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all elements contained in its approved CTR program.

(b) The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force guidelines.

(c) An employer may not request a modification of the applicable goals until one year after the city approval of its initial program description and annual report. (Ord. 2152 § 1, 1997).

11.52.230 Appeals.

(1) Appeals. Any affected employer may appeal administrative decisions regarding exemptions, modification of goals or elements or modification of the affected employer's plans using the procedures set forth in Chapter 15.11 MMC used for appeals of administrative determinations on interpretations of land use regulations.

(2) Notice of Violation and Assessment of Civil Penalties. Any person receiving a notice of violation and assessment of civil penalties for violation of this chapter may appeal the same in accordance with the provisions set forth in Chapter 4.02 MMC. (Ord. 2152 § 1, 1997).

11.52.240 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 2152 § 1, 1997).

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Chapter 11.62

TRUCK ROUTES

Sections:

11.62.010 Truck defined – Exceptions.
11.62.020 Truck routes designated.
11.62.030 Truck travel restricted to truck routes – Exceptions.
11.62.040 Travel off truck routes – Special permit requirements.
11.62.050 Special permit – Grounds for revocation – Notice.
11.62.060 Appeal from administrative determination.
11.62.070 Penalty for violations.

11.62.010 Truck defined – Exceptions.

For purposes of this chapter, a "truck" is defined as any motor vehicle having more than two axles. "Truck" shall also include all buses exceeding 10,000 gross vehicle weight (GVW) and/or all buses which have two or more axles. For purposes of this chapter, auxiliary axles shall be considered as an axle. Provided, that the restrictions contained in this chapter shall not apply to the following motor vehicles which may have more than two axles: recreational vehicles, municipal emergency vehicles and municipal service vehicles. (Ord. 2458, 2002; Ord. 1039 § 2, 1979).

11.62.020 Truck routes designated.

The city streets and avenues, or portions thereof, as designated below, shall constitute the exclusive truck routes in the city of Marysville:

(1) North-South Traffic.

Cedar Avenue from 80th Street to 1st Street;

State Avenue from the northern city limits to Grove Street;

State Avenue from 2nd Street to the southern city limits;

53rd Drive N.E. from 4th Street to 3rd Street;

67th Avenue N.E. from the northern city limits to SR 528;

47th Avenue N.E. from 2nd Street to 4th Street.

(2) East-West Traffic.

80th Street from State Avenue to Cedar Avenue;

Grove Street from 67th Avenue to Cedar Avenue;

4th Street from the eastern city limits to the I-5 interchange; provided, that there shall be no turns permitted onto State Avenue;

3rd Street from 53rd Drive N.E. to 47th Avenue;

2nd Street from 47th Avenue to State Avenue;

1st Street from State Avenue to Beach Avenue;

152nd Street N.E. from Smokey Point Boulevard (State Avenue) to east city limits;

136th Street N.E., from west city limits to State Avenue;

116th Street N.E., from I-5 freeway to east city limits (railroad tracks);

88th Street N.E., from I-5 freeway to State Avenue;

84th Street N.E., from 67th Avenue N.E. to 83rd Avenue N.E. (east city limits);

1st Street N.E., from Beach Avenue to west city limits. (Ord. 2472, 2003; Ord. 2319, 2000; Ord. 1653 § 1, 1988; Ord. 1637, 1988; Ord. 1316, 1983; Ord. 1039 § 3, 1979).

11.62.030 Truck travel restricted to truck routes – Exceptions.

It shall be unlawful for a person or corporation to operate or park a truck on any street or avenue in the city of Marysville which is not designated as a truck route by MMC 11.62.020, except under the following circumstances:

(1) Any truck may travel via the most direct route possible from a truck route to another location in the city for the exclusive purpose of local pickup, delivery, repair, or other necessary business, subject to verification of such purpose by destination papers.

(2) Any truck owned or operated by a business may travel via the most direct route possible from a truck route to the place of said business in the city; provided, that this exception shall not apply in cases where businesses are located in residential zones.

(3) The owners or operators of trucks may be issued special permits by the chief of police allowing off-route travel under special circumstances, pursuant to MMC 11.62.040.

(4) Trucks which meet the requirements of MMC 11.08.200 may park on those portions of truck routes referenced in MMC 11.08.200. (Ord. 2360, 2001; Ord. 1653 § 2, 1988; Ord. 1039 § 4, 1979).

11.62.040 Travel off truck routes – Special permit requirements.

The chief of police, or his designee, may, upon application in writing and for good cause shown, issue a special permit, in writing, authorizing the

owner or operator of a truck to operate and/or park the same on a city street or avenue, provided that said permit may contain such conditions, restrictions and limitations as are deemed necessary to reasonably protect the public health, safety and welfare. The fee for such permit shall be $5.00 per permit per truck. Permits may be issued for any reasonable period of time not exceeding 30 days. The fee shall be collected by the city finance officer as a condition of the issuance of any permit. (Ord. 1039 § 5, 1979).

11.62.050 Special permit – Grounds for revocation – Notice.

The chief of police, or his designee, may revoke any special permit granted pursuant to this chapter upon reasonable cause being shown that the permittee has violated the permit provisions or that the public health, safety or welfare is endangered by the continuation of the permit. The permittee shall be given notice of revocation in writing by personal service or by certified mail, return receipt requested. (Ord. 1039 § 6, 1979).

11.62.060 Appeal from administrative determination.

Any applicant for a special permit, or any resident of the city who is personally affected by the granting, denial or revocation of a special permit, may appeal the administrative decision of the chief of police to the city council. Such appeal must be made within 10 days of the administrative decision. All parties to the appeal will be given not less than 10 days' advance written notice of the date, time and place of the city council hearing on such appeal. (Ord. 1039 § 7, 1979).

11.62.070 Penalty for violations.

The owner or lessee, and the driver of any truck which violates any provision of this chapter shall each be civilly liable for an infraction and shall be assessed a monetary penalty not to exceed $250.00. (Ord. 1347, 1983).

Title 12

STREETS AND SIDEWALKS[1]

Chapters:

12.02 Street Department Code
12.02A Street Department Code
12.04 Street Names
12.06 *Repealed*
12.08 Excavations and Obstructions
12.12 Sidewalks – Maintenance by Abutting Owners
12.20 Animals and Vehicles on Sidewalks
12.22 Sidewalks – Sitting or Lying Down on
12.24 Sidewalks – Dangerous Conditions
12.28 Street Closure
12.32 Vacation of Streets and Alleys
12.36 Vegetation
12.40 Clean Condition of Public Right-of-Way

1. For provisions regarding traffic, see MMC Title 11; for provisions regarding local improvement assessments and funds, see Chapter 3.16 MMC; for provisions regarding sound trucks on streets, see Chapter 6.76 MMC; for provisions regarding animals on streets, see MMC Title 10.

Chapter 12.02

STREET DEPARTMENT CODE*

Sections:

12.02.010 Adoption.
12.02.020 Reference.
12.02.030 Copies on file.
12.02.040 Applicable specifications.
12.02.050 Construction specifications.
12.02.060 Inspection – Cost, payment.
12.02.070 As-built drawings required.
12.02.080 Standard street sections.
12.02.090 Driveways.
12.02.100 Permits required for street work.
12.02.110 Variances.
12.02.120 Sign removal.
12.02.125 Utility pole and line relocation or removal.
12.02.130 Temporary pedestrian crossing.
12.02.150 Street patching.
12.02.160 Curb, gutter, sidewalk, driveway and alley grades.
12.02.170 Frontage improvements required.
12.02.180 Minimum access requirements.
12.02.190 Dedication of road right-of-way – Required setbacks.

*Code reviser's note: Sections 2 and 3 of Ordinance 2292 provide:

Chapter 12.02 Marysville Municipal Code shall continue to apply to all complete applications for which rights vested prior to the effective date for Chapter 12.02A Marysville Municipal Code [Nov. 1, 1999]. Once all said complete applications with vested rights have been processed or lapse, then Chapter 12.02 Marysville Municipal Code shall be of no further force and effect.

Any reference in the Marysville Municipal Code to Chapter 12.02 or to any section of Chapter 12.02 is hereby amended and shall be deemed to be a reference to either Chapter 12.02 or Chapter 12.02A Marysville Municipal Code, or to the corresponding section in either Chapter 12.02 or 12.02A, whichever is applicable under the terms of this ordinance.

12.02.010 Adoption.

There is adopted a street department code governing the rules and specifications to be followed in public works construction in the city's public rights-of-way. (Ord. 700 § 1, 1970; Ord. 613 § 1, 1968).

12.02.020 Reference.

The street department code by this reference is made a part of this chapter as though fully set forth herein. (Ord. 613 § 2, 1968).

12.02.030 Copies on file.

Three copies of the street department code are on file with the city clerk and may be inspected by interested parties during regular business office hours in the city clerk's office. (Ord. 613 § 3, 1968).

12.02.040 Applicable specifications.

Specifications to be adhered to in performing work in/or upon public rights-of-way of the city shall be in accordance with Standard Specifications for Municipal Public Works Construction, as supplemented and modified by the street department code. Three copies of the standard specifications are on file in the office of the city clerk. (Ord. 700 § 2, 1970).

12.02.050 Construction specifications.

(1) All lines installed in existing or new city streets shall have the location designated by the city engineer.

(2) All "asbestos cement" and/or plastic pipes crossing city streets must be encased in a steel pipe of larger diameter.

(3) There shall be no tunneling of streets or alleys. Lines shall be laid by either open cut or by the method of jacked casing.

(4) No open cut crossing of city streets or alley shall be made without the approval of the city engineer.

(5) All open cut crossings of streets shall conform to the following: Existing surface shall be precut two feet wider than bucket width. Backfilling and compaction shall be accomplished immediately after installation of pipe. Backfill material shall be completely granular and free draining. Immediately following compaction effort, four inches minimum compacted crushed rock shall be installed and patched with cold mix of two inches minimum thickness.

(6) Final restoration of open cuts shall be as follows: Temporary cold patch shall be removed. Edges of existing road surface shall be cut and trimmed to a neat, straight line, then tacked and a two-inch minimum compacted thickness of Class B asphaltic concrete installed in a manner satisfactory to the city engineer.

(7) Shoulders disturbed by excavation shall be shaped to city standards and be followed with minimum two-inch compacted crushed top course, followed by the installation of a double bituminous surface treatment.

(8) Compaction of backfill under special conditions: At locations where paved streets, driveways, sidewalks or curb and gutters will be constructed or

reconstructed over the trench or where provided for in the special provisions or directed by the engineer, the backfill shall be spread in layers and be compacted by mechanical tampers. In such cases, the backfill shall be placed in successive layers, not exceeding 12 inches in thickness and each layer shall be compacted with mechanical tampers to the density directed by the engineer. Mechanical tampers shall be of the impact type as specified in "Section 15-2.01A of Standard Specifications for Municipal Public Works Construction 1963."

(9) On graded streets without pavement or on street shoulders and unimproved areas, compaction of backfill shall be by water settling or wheel rolling as directed by city engineer. When water settling is directed by the engineer, it shall be in accordance with "Section 73-2.07A and Section 73-2.07B of Standard Specifications for Municipal Public Works Construction 1963."

(10) All crossing of city rights-of-way shall be as follows:

(a) Asbestos cement pipe for water supplies shall be installed in accordance with "John Manville Transite Water Pipe Installation Specifications DS-348-61;"

(b) The permittee shall advise the city 24 hours before starting any of the above described work and no backfill shall be placed without the approval of the city engineer.

(11) Existing drainage ditches, culverts, etc., shall be kept clean at all times. Temporary diversion of any drainage system will not be permitted without the consent of the city engineer. Any drainage culvert tile, catch basins, manholes, etc., disturbed by excavation, shall be replaced with new materials or repaired as directed by the city engineer.

(12) If in the opinion of the city engineer the weather is such that by a particular contract renders the traveled roadways unsafe for public passage then upon his orders, excavation shall cease immediately and cleanup promptly accomplished.

(13) The maximum amount of open trench on city streets shall be 400 lineal feet.

(14) All pipe strung along city rights-of-way must be placed a safe distance from the traveled roadway in such a manner as to avoid accidental rolling onto roadway.

(15) Final cleanup, including complete restoration of shoulders, cleaning of ditches, culverts and catch basins, removal of loose material from back slope of ditches, shall not exceed 800 lineal feet behind excavating operation.

(16) Street surfaces shall be cleaned at end of each day's operation with a power broom or other approved means. Blading of asphalt streets will not be permitted.

(17) No excess material or unsuitable material shall be left on city rights-of-way without the express consent of the city engineer.

(18) Signs and traffic controls will be furnished by the contractor and shall be in accordance with regulations as established by the Washington State Department of Safety.

(19) No backfill shall be placed without approval by city engineer.

(20) "City engineer," as used herein, means city engineer, superintendent of streets or their authorized representatives. (Ord. 700 § 3, 1970).

12.02.060 Inspection – Cost, payment.

All work to be performed in the city streets shall be supervised by a full-time inspector retained by the city. The cost of inspection, as set forth in MMC 14.07.005, shall be paid by the permittee prior to acceptance by city and prior to issuance of further permits. This section does not apply to public works projects under contract with the city. (Ord. 2106 § 5, 1996; Ord. 700 § 4, 1970).

12.02.070 As-built drawings required.

Permittee will be required to submit a complete set of as-built drawings upon completion of a project. The drawings shall contain such information as depth, location from the street centerline or the right-of-way line, size, type of material and any other information that may be useful in locating the completed work at a future date. (Ord. 700 § 5, 1970).

12.02.080 Standard street sections.

All city streets shall be constructed according to the specifications and details shown on the standard street sections marked Exhibits A, B, C, D, E, F and G, three copies of which are on file in the office of the city clerk and by this reference made a part of this code. (Ord. 1110 § 1, 1980; Ord. 700 § 6, 1970).

12.02.090 Driveways.

Driveways shall be not less than 12 feet nor more than 30 feet in width for residential uses, and 30 feet minimum and 40 feet maximum for commercial/industrial uses, and the cumulative width of driveways shall not exceed 30 percent of the street frontage of any lot; provided, that the city engineer may waive these requirements at the time of issuing a driveway permit if such a waiver is

determined to be in the public interest. Any portion of driveways constructed on public right-of-way shall be a minimum of six inches thick, and shall conform to the APWA Standard Specifications. Where driveways are constructed over an existing drainage ditch, a culvert shall be installed. The size of the culvert shall be determined by the city engineer. Any determination of the city engineer with respect to driveways may be appealed to the hearing examiner by following the procedures in Chapter 15.11 MMC. Driveway access locations for street arterials shall be subject to the city's access management plans as adopted in the city's comprehensive plan. (Ord. 2183 § 3, 1998; Ord. 1512, 1987; Ord. 700 § 7, 1970).

12.02.100 Permits required for street work.

All driveways, paving, curbing, fencing, tiling of ditches or any other type of work within the city rights-of-way will not be allowed without first obtaining a permit for such work from the street department. Applicable fees and costs for these permits are set forth in MMC 14.07.005. (Ord. 2106 § 6, 1996; Ord. 700 § 8, 1970).

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12.02.110 Variances.

(1) The city council shall have the authority to grant a variance from the requirements of the street department code and from the requirements of this chapter, after considering the matter at a public hearing duly called in accordance with the procedures specified below. No application for a variance shall be granted by the council unless the council finds:

(a) That special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the same neighborhood, and that literal interpretation of the provisions of the street code and this chapter would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same neighborhood;

(b) That the special conditions and circumstances do not result from the actions of the applicant, and are not self-imposed hardships;

(c) That granting the variance requested will not confer a special privilege to the subject property that is denied other lands in the same neighborhood;

(d) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the subject property is situated;

(e) That the granting of the variance requested will be in harmony with the general purpose and intent of the street code and this chapter;

(f) That the purpose of the variance is not merely to permit the subject property to be utilized more profitably by the owner or to economize on the cost of improving the property.

(2) Conditions. In granting any variance the city council may prescribe appropriate conditions and safeguards that will ensure that the purpose and intent of the street code and this chapter shall not be violated. Further, the city council may require the applicant to post a performance bond guaranteeing compliance with such conditions. Violation of conditions and safeguards contained in a variance shall be considered to be a violation of this chapter and punishable under MMC 1.01.030.

(3) Effective Date of Variance. The decision of the city council granting or denying a variance shall not become final until the expiration of 10 days from the date of entry of such decision in the official records of the city council. An aggrieved party may file an appeal of such decision to the Snohomish County Superior Court within said 10-day period; if no such appeal is filed, the decision shall thereupon become final.

(4) Procedure. Application for a variance shall be filed with the city clerk in writing and shall be accompanied by a fee as set forth in MMC 14.07.005, which shall pay for the cost of processing the application and the costs of publishing and posting the required public notices. All applications shall be accompanied by a copy of the Snohomish County assessor's record showing the legal owners of all property within 200 feet of the subject property. All applications shall contain a statement as to why the variance is necessary, and why it would meet the criteria of this chapter. The application shall also contain scaled drawings of the subject property, abutting roads, and all property within 200 feet thereof.

(5) Public Notice and Hearing. Proper notice of a hearing on a variance application before the city council shall be as follows:

(a) One publication in the official newspaper for the city at least 10 days prior to the date of hearing;

(b) Posting of copies of the notice of hearing at least 10 days prior to the hearing in:

(i) Marysville City Hall,

(ii) The United States Post Office in the city of Marysville, and

(iii) In a conspicuous place on the property which is the subject matter of the application;

(c) Written notice mailed to the owner or reputed owner of property within 200 feet of the property which is the subject matter of the application, which ownership is deemed to be that of the last owner of record in the files of the Snohomish County assessor, said notice to be mailed at least 10 days prior to the date of the hearing;

(d) The compliance officer of the city shall be responsible for the mailing and publication of all required notices. He shall diligently observe the foregoing requirements, but minor inaccuracies in giving such notice shall not invalidate the proceedings of the city council. (Ord. 2106 § 7, 1996; Ord. 1098, 1980; Ord. 912 §§ 2 – 6, 1976).

12.02.120 Sign removal.

All utility installers, contractors or others shall notify the street department of the need for removing any sign on a city right-of-way. The notice shall be given 24 hours in advance of such removal. The street department shall remove the sign, and replace it again at no charge.

If a sign is removed by anyone other than the street department, a charge will be made for the work involved in replacing the sign and for the cost of the sign itself, as set forth in MMC 14.07.005. In addition, unauthorized removal of signs shall be

subject to the penalties provided for in applicable ordinances. (Ord. 2106 § 8, 1996; Ord. 700 § 10, 1970).

12.02.125 Utility pole and line relocation or removal.

In the event the city determines that public utility poles or lines must be relocated or removed in connection with a public works project for improvement of streets, sidewalks or utilities, the city shall give the utility companies owning or controlling said poles and lines 60 days' written notice requiring relocation or removal of the same. If any utility company fails or refuses to remove or relocate the poles or lines as required by the notice within 60 days of the date thereof, a penalty assessment shall commence accruing against each such utility company at the rate of $100.00 per day. Payment of said assessment, in full, shall be a condition of the continuation of said utility company's franchise with the city of Marysville. The Marysville police court shall have jurisdiction over any civil action commenced for the collection of delinquent assessments. (Ord. 1260, 1982; Ord. 1148, 1980).

12.02.130 Temporary pedestrian crossing.

All construction crossing a sidewalk or adjacent to a sidewalk that constitutes a hazard to the pedestrian using the sidewalk, shall include a temporary pedestrian crossing or by-pass. The street superintendent shall determine when and where the temporary pedestrian crossing shall be used. In general, the crossing shall conform to Exhibit "C".

In cases where falling objects are expected to be encountered, a completely enclosed crossing shall be constructed. The contractor shall submit to the street superintendent, for his approval, detailed drawings of the enclosed structure. (Ord. 706 § 1, 1970; Ord. 700 § 10(a), 1970).

12.02.150 Street patching.

All street patching done within city streets shall be done by a contractor approved by the street superintendent. (Ord. 707, 1970; Ord. 700 § 10(c), 1970).

12.02.160 Curb, gutter, sidewalk, driveway and alley grades.

(1) The grades for curbs, gutters, sidewalks, driveways and alleys shall be obtained from the street superintendent or city engineer. The grades shall be as specified in the APWA Standard Specifications for Municipal Public Works Construction, including any amendments thereto, with the following exceptions:

Driveways and alleys: eight percent maximum;

Curbs and gutters: per city engineer.

(2) The APWA Standard Specifications for Municipal Public Works Construction, including amendments thereto, is made a part of this section by reference as though fully set forth herein. (Ord. 1355, 1984; Ord. 727, 1971; Ord. 700 § 11, 1970).

12.02.170 Frontage improvements required.

(1) The term "frontage improvements" as used in this section shall refer to the construction, reconstruction or repair of the following facilities along the full abutting public street frontage of property being developed:

(a) Curbs, gutters and sidewalks;

(b) Underground storm drainage facilities;

(c) Patching the street from its preexisting edge to the new curb line;

(d) Overlayment of the existing public street to its centerline.

All such frontage improvements shall be constructed to city specifications.

(2) Property owners shall be required to construct frontage improvements along the full abutting public street frontage of property which is developed as provided in subsection (3) below; provided, that overlayment of an existing public street to its centerline shall not be required for single-family or duplex development.

(3) Frontage improvements shall be constructed as follows:

(a) Formal plats: frontage improvements shall be completed prior to recording the final plat, or may be bonded pursuant to provisions of MMC Title 20;

(b) Short plats: frontage improvements shall be completed for frontage abutting all lots prior to the issuance of a building permit for any lot in the short plat;

(c) Construction of a dwelling unit, business, commercial or industrial building: frontage improvements shall be completed prior to occupancy of the building;

(d) Construction of any additions, alterations or repairs to a dwelling unit, or to a business, commercial or industrial building within any 12-month period, which exceed 50 percent of the value of the existing building on the property: frontage improvements shall be completed prior to occupancy;

(e) Development of a mobile home park or other project requiring a binding site plan: frontage improvements shall be completed prior to occupancy;

(f) Any change in the occupancy classification of an existing building or structure on the property: frontage improvements shall be completed prior to occupancy;

(g) Construction of a wireless communication facility with support structure: frontage improvements shall be completed prior to issuance of a building permit.

(4) In the case of single-family residential construction on a single lot, a property owner may satisfy the frontage improvement requirements by participating in a cost-sharing program with the city if the same is approved in the then-current budget of the city council.

(5) The director of the department of public works shall have authority to grant administrative variances from any of the requirements of this section on technical grounds of engineering feasibility or necessity. Such variances may be conditioned upon the property owner signing a contract to construct the frontage improvements at a future time. Any party aggrieved by a decision of the director may appeal the same to the city council. The city council shall have authority to grant variances from any of the requirements of this section pursuant to the procedures specified in MMC 12.02.110. (Ord. 2145 § 11, 1997; Ord. 1632 § 2, 1988).

12.02.180 Minimum access requirements.

No development permits or short plats shall be issued or approved by the city for any lot, parcel or tract which does not comply with the following minimum access requirements:

(1) The front-yard line or a side-yard line must abut immediately upon and provide direct access to one of the following:

(a) An open, constructed and maintained public road; or

(b) A private road in an approved formal plat; or

(c) An exclusive, unshared, unobstructed, permanent access easement or private access road which directly connects to a public road and which is improved to standards specified by the city engineer and has a right-of-way width as set forth in the following table:

Development	Right-of-Way Width
1 lot with 1 dwelling unit (or duplex)	20 feet
2 – 4 lots, or 2 – 8 dwelling units	30 feet
More than 8 dwelling units on a dead-end street less than 600 feet long and terminating in a closed cul-de-sac with no chance of extension	50 feet
More than 8 dwelling units on all other streets	60 feet

(2) In all cases where the right-of-way required in subsection (1) is either 50 or 60 feet wide, the same shall be designed in a manner that would permit reasonable and safe construction of a city street meeting city standards. Nothing in this section shall be construed to require the city to construct or maintain any such private road.

(3) If one or more lots are built upon a unit of property under one ownership, they shall, for the purpose of this title, be considered as a single lot; provided, that internal private access roads or driveways serving two or more dwelling units located on a single lot shall not exceed 600 feet in length, and shall have a minimum right-of-way width of 26 feet.

(4) The maximum number of lots that may be served by a private road is four.

(5) Each and every lot having access to a private road shall have responsibility for maintenance of such private road.

(6) Any private road established under this section shall contain a utilities easement approved by the city.

(7) The city council shall have the authority to grant a variance from the requirements of this section pursuant to MMC 12.02.110. (Ord. 1752, 1990; Ord. 1047, 1979; Ord. 1018, 1979).

12.02.190 Dedication of road right-of-way – Required setbacks.

(1) In all zones it shall be required that a property owner dedicate to the city sufficient property to widen all abutting public-rights-of-way to the full width as measured from the design centerline, so as to conform to the applicable road standard specified by the city engineer. Such dedication shall be at no cost to the city in all of the following cases:

(a) Such dedication shall be required as a condition of approval of a final plat.

(b) Such dedication shall be required as a condition of approval of a short plat.

(c) Such dedication shall be required as a condition of approval of a binding site plan for a mobile home park, condominium, planned unit development, shopping center or industrial park.

(d) Such dedication may be required as a condition of approval of any rezone, conditional use permit or building permit for projects which the city finds will have a significant adverse impact on traffic or pedestrians using the abutting roads.

(2) In all zones the dimensions of required yards and the dimensions of setbacks for buildings and

other structures, as specified in Chapter 19.20 MMC, shall be measured from the ultimate design width of abutting public right-of-way according to the applicable road standard specified by the city engineer. This requirement shall apply to all development permits regardless of whether the property owner has dedicated right-of-way to the city pursuant to subsection (1) of this section. (Ord. 1231, 1982).

Chapter 12.02A

STREET DEPARTMENT CODE*

Sections:

12.02A.010 Adoption.
12.02A.020 Copies on file.
12.02A.030 General specifications.
12.02A.040 Inspection – Cost, payment.
12.02A.050 Permits required for street work.
12.02A.060 Sign removal.
12.02A.070 Utility pole and line relocation or removal.
12.02A.080 Temporary pedestrian crossing.
12.02A.090 Frontage improvements required.
12.02A.100 Minimum access requirements.
12.02A.110 Dedication of road right-of-way – Required setbacks.
12.02A.120 Variances.
12.02A.130 Bonds and liability insurance required.
12.02A.140 Enforcement.
12.02A.150 No special duty created.
12.02A.160 Severability.

*Code reviser's note: Sections 2 and 3 of Ordinance 2292 provide:

Chapter 12.02 Marysville Municipal Code shall continue to apply to all complete applications for which rights vested prior to the effective date for Chapter 12.02A Marysville Municipal Code [Nov. 1, 1999]. Once all said complete applications with vested rights have been processed or lapse, then Chapter 12.02 Marysville Municipal Code shall be of no further force and effect.

Any reference in the Marysville Municipal Code to Chapter 12.02 or to any section of Chapter 12.02 is hereby amended and shall be deemed to be a reference to either Chapter 12.02 or Chapter 12.02A Marysville Municipal Code, or to the corresponding section in either Chapter 12.02 or 12.02A, whichever is applicable under the terms of this ordinance.

12.02A.010 Adoption.

The latest edition of the city of Marysville engineering design and development standards is hereby adopted by reference and is hereinafter referred to as the "city standards." The city standards by this reference are made a part of this chapter as though fully set forth herein. (Ord. 2292 § 1, 1999).

12.02A.020 Copies on file.

A copy of the city standards are on file with the city clerk and the city engineer and may be inspected by interested parties during regular business office hours in the city clerk's office. (Ord. 2292 § 1, 1999).

12.02A.030 General specifications.

(1) All lines installed in existing or new city streets shall have the location designated by the city engineer.

(2) All "asbestos cement" and/or plastic pipes crossing city streets must be encased in a steel pipe of larger diameter.

(3) No open cut crossing of city streets or alleys shall be made without the approval of the city engineer.

(4) Existing drainage ditches, culverts, etc., shall be kept clean at all times. Temporary diversion of any drainage system will not be permitted without the consent of the city engineer. Any drainage culvert tile, catch basins, manholes, etc., disturbed by excavation shall be replaced with new materials or repaired as directed by the city engineer.

(5) If in the opinion of the city engineer the weather is such that by a particular contract renders the traveled roadways unsafe for public passage then, upon his orders, excavation shall cease immediately and restoration and cleanup promptly accomplished.

(6) The maximum amount of open trench on city streets shall be 400 lineal feet.

(7) All construction material stored along city rights-of-way must meet minimum clear zone distances from the traveled roadway and stored in such a manner as to avoid accidental movement.

(8) Final cleanup, including complete restoration of shoulders; cleaning of ditches, culverts and catch basins; and removal of loose material from back slope of ditches, shall not exceed 800 lineal feet behind excavating operation.

(9) No excess material or unsuitable material shall be left on city rights-of-way without the express consent of the city engineer.

(10) No backfill shall be placed without approval by city engineer. (Ord. 2292 § 1, 1999).

12.02A.040 Inspection – Cost, payment.

All work to be performed in the city streets shall be inspected by an inspector retained by the city. The cost of inspection, as set forth in MMC 14.07.005 or 14.07.005A, shall he paid by the permittee prior to acceptance by city and prior to issuance of further permits. This section does not apply to public works projects under contract with the city. (Ord. 2292 § 1, 1999).

12.02A.050 Permits required for street work.

All driveways, paving, curbing, fencing, tiling of ditches or any other type of work within the city rights-of-way will not be allowed without first obtaining a right-of-way use permit for such work from the street department. Applicable fees and costs for these permits are set forth in MMC 14.07.005 or 14.07.005A. (Ord. 2292 § 1, 1999).

12.02A.060 Sign removal.

All utility installers, contractors or others shall notify the street department of the need for removing any sign on a city right-of-way. The notice shall be given 24 hours in advance of such removal. The street department shall remove the sign, and replace it again at no charge.

If a sign is removed by anyone other than the street department, a charge will be made for the work involved in replacing the sign and for the cost of the sign itself, as set forth in MMC 14.07.005 or 14.07.005A. In addition, unauthorized removal of signs shall be subject to the penalties provided for in applicable ordinances. (Ord. 2292 § 1, 1999).

12.02A.070 Utility pole and line relocation or removal.

In the event the city determines that public utility poles or lines must be relocated or removed in connection with a public works project for improvement of streets, sidewalks or utilities, the city shall give the utility companies owning or controlling said poles and lines 60 days' written notice requiring relocation or removal of the same. If any utility company fails or refuses to remove or relocate the poles or lines as required by the notice within 60 days of the date thereof, a penalty assessment shall commence accruing against each such utility company at the rate of $100.00 per day. Payment of said assessment, in full, shall be a condition of the continuation of said utility company's franchise with the city of Marysville. The Marysville police court shall have jurisdiction over any civil action commenced for the collection of delinquent assessments. (Ord. 2292 § 1, 1999).

12.02A.080 Temporary pedestrian crossing.

All construction crossing a sidewalk or adjacent to a sidewalk that constitutes a hazard to the pedestrian using the sidewalk shall include a temporary pedestrian crossing or by-pass. The street superintendent shall determine when and where the temporary pedestrian crossing shall be used.

In cases where falling objects are expected to be encountered, a completely enclosed crossing shall be constructed. The contractor shall submit to the street superintendent, for his approval, detailed drawings of the enclosed structure. (Ord. 2292 § 1, 1999).

12.02A.090 Frontage improvements required.

(1) The term "frontage improvements" as used in this section shall refer to the construction, reconstruction or repair of the following facilities along the full abutting public street frontage of property being developed:

(a) Curbs, gutters and sidewalks;

(b) Underground storm drainage facilities;

(c) Patching the street from its preexisting edge to the new curb line;

(d) Overlayment of the existing public street to its centerline.

All such frontage improvements shall be constructed to city specifications.

(2) Property owners shall be required to construct frontage improvements along the full abutting public street frontage of property which is developed as provided in subsection (3) of this section; provided, that overlayment of an existing public street to its centerline shall not be required for single-family or duplex development.

(3) Frontage improvements shall be constructed as follows:

(a) Formal plats: frontage improvements shall be completed prior to recording the final plat, or may be bonded pursuant to provisions of MMC Title 20;

(b) Short plats: frontage improvements shall be completed for frontage abutting all lots prior to the issuance of a building permit for any lot in the short plat;

(c) Construction of a dwelling unit, business, commercial or industrial building: frontage improvements shall be completed prior to occupancy of the building;

(d) Construction of any additions, alterations or repairs to a dwelling unit, or to a business, commercial or industrial building, within any 12-month period, which exceed 50 percent of the assessed value of the existing building on the property: frontage improvements shall be completed prior to occupancy;

(e) Development of a mobile home park or other project requiring a binding site plan: frontage improvements shall be completed prior to occupancy;

(f) Any change in the occupancy classification of an existing building or structure on the property: frontage improvements shall be completed prior to occupancy;

(4) In the case of single-family residential construction on a single lot, a property owner may satisfy the frontage improvement requirements by participating in a cost-sharing program with the city if the same is approved in the then-current budget of the city council.

(5) The director of community development or designee shall have authority to grant administrative variances from any of the requirements of this section pursuant to MMC 12.02A.120. Such variances shall be conditioned upon the property owner signing a contract providing for the construction of the frontage improvements at a future time. Said contract shall include, but not be limited to, the making of a cash deposit with the city in an amount equal to the estimate of the city engineer of the cost of said improvements, including design cost, plus an administrative overhead fee of 15 percent. No other form of payment or security shall be authorized. In the event the frontage improvements are not constructed by the property owner within five years of the grant of a variance, the cash deposit shall be forfeited to the city. If said frontage improvements are constructed by the property owner at the request of the city within five years of the grant of a variance, said cash deposit shall be refunded to the property owner less the 15 percent overhead fee. Said contract shall be subject to the approval of the city attorney and shall contain such other provisions as are necessary to effectuate the future construction of such frontage improvements. The refusal of a property owner to enter into such agreement or to post a cash amount as specified herein shall be a basis to deny a variance request and shall require the construction of such frontage improvements in accordance with subsections (1) through (4) of this section.

The council authorizes the mayor to review, execute and sign contracts for deferred construction of curbs, gutters and sidewalks pursuant to this chapter.

Any party aggrieved by a decision of the director of community development or city engineer may appeal the decision pursuant to MMC 12.02.A.120(4). (Ord. 2547 § 1, 2004; Ord. 2539 § 1, 2004; Ord. 2292 § 1, 1999).

12.02A.100 Minimum access requirements.

No development permits or short plats shall be issued or approved by the city for any lot, parcel or tract which does not comply with the following minimum access requirements:

(1) The front-yard line or a side-yard line must abut immediately upon and provide direct access to one of the following:

(a) An open, constructed and maintained public road; or

(b) A private road in an approved formal plat.

(2) If one or more lots are built upon a unit of property under one ownership, they shall, for the purpose of this title, be considered as a single lot; provided, that internal private access roads or driveways serving two or more dwelling units located on a single lot shall not exceed 600 feet in length, and shall have a minimum right-of-way width of 25 feet.

(3) Each and every lot having access to a private road shall have responsibility for maintenance of such private road.

(4) Any private roads established under this section shall contain a utilities easement approved by the city. (Ord. 2292 § 1, 1999).

12.02A.110 Dedication of road right-of-way – Required setbacks.

(1) It shall be required that a property owner dedicate to the city sufficient property to widen all abutting public rights-of-way to the full width as measured from the right-of-way centerline, so as to conform to the applicable city standards. Such dedication shall be at no cost to the city in all of the following cases:

(a) Such dedication shall be required as a condition of approval of a final plat.

(b) Such dedication shall be required as a condition of approval of a short plat.

(c) Such dedication shall be required as a condition of approval of a binding site plan for a

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mobile home park, condominium, planned unit development, shopping center or industrial park.

(d) Such dedication shall be required as a condition of approval of any rezone, conditional use permit or building permit

(2) The dimensions of required yards and the dimensions of setbacks for buildings and other structures, as specified in Chapter 19.12 MMC, shall be measured from the ultimate design width of abutting public rights-of-way according to the applicable road standard specified by the city engineer. This requirement shall apply to all development permits regardless of whether the property owner has dedicated rights-of-way to the city pursuant to subsection (1) of this section. (Ord. 2292 § 1, 1999).

12.02A.120 Variances.

(1) Variances from the requirements of this chapter may be granted for good cause by the public works director or designee, only if the applicant demonstrates all of the following in writing:

(a) Special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the same neighborhood, and that literal interpretation of the provisions of the standards would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same neighborhood;

(b) Special conditions and circumstances do not result from the actions of the applicant, and are not self-imposed hardships;

(c) Granting of the variance requested will not confer a special privilege to the subject property that is denied other lands in the same neighborhood;

(d) Granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the subject property is situated;

(e) Granting of the variance requested will be in harmony with the general purpose and intent of the city standards;

(f) The purpose of the variance is not merely to permit the subject property to be utilized more profitably by the owner or to economize on the cost of improving the property;

(g) Granting of the variance will not be detrimental to public safety or capacity of roadway network.

(2) In granting any variance the city may prescribe appropriate conditions and safeguards that will ensure that the purpose and intent of the city standards will not be violated.

(3) The decision of the public works director or designee concerning a request for a variance shall be made in writing. The variance may be approved, approved with conditions, or denied. All decisions shall be accompanied by written findings relating to variance criteria. The decision on the variance request shall be final on the date issued.

(4) The decision of the public works director or designee may be appealed to the hearing examiner per the requirements of Chapter 15.11 MMC. (Ord. 2292 § 1, 1999).

12.02A.130 Bonds and liability insurance required.

The department is authorized to require all persons constructing a facilities within city rights-of-way to post surety or cash bonds. Where such persons have previously posted, or are required to post, other such bonds on the facility itself or on other construction related to the facility, such person may, with the permission of the public works director or designee, and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; arid provided further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

(1) Construction Bond. Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount sufficient to cover 140 percent of the cost of performing said construction per the approved plans. Alternatively, an equivalent cash deposit to an escrow account administered by a local account bank may be allowed at the city's option.

(2) Maintenance Bond. After satisfactory completion of the facilities and release of the construction bond by the city, the person constructing the facility shall commence a two-year period of satisfactory maintenance of the facility. A cash bond to be used at the discretion of the city, to correct deficiencies in said maintenance affecting public health, safety and welfare, must be posted and maintained throughout the two-year maintenance period. The amount of the cash bond shall be determined by the public works director or designee. In addition, at the discretion of the city, a surety bond or cash bond to cover the cost of design defects or failures in workmanship shall also be posted and maintained through the two-year maintenance period. Alternatively, an equivalent cash deposit to an escrow account administered by a local account bank may be allowed, at the city's option.

(3) Liability Policy. The person constructing the facility shall maintain a liability policy in an amount to be determined by the city which shall name the city of Marysville as an additional insured and which shall protect the city from any liability for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in the case of facilities assumed by the city for maintenance, the liability policy shall be terminated when the city maintenance responsibility commences. (Ord. 2292 § 1, 1999).

12.02A.140 Enforcement.

Enforcement of the provisions of this chapter shall be pursuant to MMC Title 4. (Ord. 2292 § 1, 1999).

12.02A.150 No special duty created.

(1) It is the purpose of this chapter to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this chapter. No provision or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

(2) Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or by reason or as a consequence of any inspection, notice, or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officers, agents, or employees. (Ord. 2292 § 1, 1999).

12.02A.160 Severability.

If any section, subsection, sentence, clause, phrase, or word of this chapter 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 chapter. (Ord. 2292 § 1, 1999).

Chapter 12.04

STREET NAMES

Sections:

12.04.010 Street names designated generally.
12.04.014 Third Street.
12.04.015 64th Street N.E.
12.04.020 Ninth Street.
12.04.030 Tenth Street.
12.04.035 Grove Street.
12.04.040 47th Avenue N.E.
12.04.045 Armar Road.
12.04.050 Union Street.
12.04.060 Quinn Street.
12.04.065 State Avenue.
12.04.067 43rd Avenue N.E.
12.04.070 System of numerical designation.
12.04.080 General plan for assigning numbers.
12.04.090 Assigning numbers to irregular lots.
12.04.100 Record of numbering – Application for number – Affixing.
12.04.110 Size of figures.
12.04.120 Failure to number after notice – Penalty.
12.04.130 Correcting noncomplying number.
12.04.140 Penalty for violations.

12.04.010 Street names designated generally.

The several streets, avenues and public places in the city of Marysville shall hereafter be known by the names applied thereto respectively on the several plats of land within the limits of the city as the same appear of record in the office of the auditor of Snohomish County, state of Washington, except as hereinafter provided. (Ord. 266 § 1, 1929).

12.04.014 Third Street.

The extension of the Third Street N.E. alignment from 47th Avenue N.E. to 58th Drive shall hereafter be known and designated as 61st Street N.E., and east of 58th Drive it shall be known and designated as Sunnyside Boulevard. (Ord. 1800, 1990; Ord. 1641, 1988).

12.04.015 64th Street N.E.

The extension of the 4th Street N.E. alignment from 47th Avenue N.E. to the east city limits shall hereafter be known and designated as 64th Street N.E. (Ord. 1629 § 1, 1988).

12.04.020 Ninth Street.

Steele Street in Steele's Suburban Addition and Nina Street in Coleman and Hagen's Addition shall hereafter be known and designated as Ninth Street,

and the entire length of Ninth Street projected to the west city limits shall be known as Ninth Street. (Ord. 266 § 2, 1929).

12.04.030 Tenth Street.

Ninth Street in Steele's Second Addition, lying west of Delta Street, shall hereafter be known and designated as Tenth Street. (Ord. 266 § 3, 1929).

12.04.035 Grove Street.

The east-west corridor aligned with 76th Street N.E., merging into 72nd Street N.E., shall hereafter be known and designated as Grove Street from the eastern city limits to the western city limits. (Ord. 1629 § 2, 1988).

12.04.040 47th Avenue N.E.

Mona Street in Swinnerton's Addition, also known as Liberty Street, shall hereafter be designated as 47th Avenue N.E. from the southern city limits to the northern city limits. (Ord. 1626 § 1, 1988; Ord. 266 § 4, 1929).

12.04.045 Armar Road.

The diagonal extension of 47th Avenue N.E. running in a northeasterly direction from 6th Street N.E. to Grove Street shall hereafter be known and designated as Armar Road. (Ord. 1629 § 3, 1988).

12.04.050 Union Street.

Rainier Street in Swinnerton's Addition shall hereafter be known and designated as Union Street, and the entire length of Union Street projected to the north city limits shall hereafter be designated as Union Street. (Ord. 266 § 5, 1929).

12.04.060 Quinn Street.

Douglas Street in Swinnerton's Addition shall hereafter be known and designated as Quinn Street, and the entire length of Quinn Street projected to the north city limits shall hereafter be designated as Quinn Street. (Ord. 266 § 6, 1929).

12.04.065 State Avenue.

SR 529, also known as Old Highway 99, shall hereafter be designated as State Avenue from the southern city limits to 136th Street N.E. From 136th Street N.E. to the northern city limits shall retain the name "Smokey Point Boulevard." (Ord. 2349 § 1, 2000; Ord. 2333 § 1, 2000; Ord. 1626 § 2, 1988).

12.04.067 43rd Avenue N.E.

The extension of the Alder Avenue alignment in a northerly direction from Grove Street to 76th Street N.E. shall hereafter be known and designated as 43rd Avenue N.E. (Ord. 1629 § 4, 1988).

12.04.070 System of numerical designation.

The numerical designation of all doorways and entrances to buildings, lots, yards and grounds fronting upon the several streets, avenues and public places of the city is hereby established in accordance with the following system as far as practicable:

There shall be 100 numbers assigned to all the frontages situated between any two cross streets, 50 numbers to each side of the street; the lots, buildings or frontages of each successive block along such street bearing the number of the hundred next higher than the hundred of the block next preceding; one whole number to be allotted to each 25 feet frontage, or major fraction thereof in each block, and where there shall be more than one frontage, half numbers shall be used; even numbers shall be used on the easterly or right hand side of streets and avenues running from south to north and odd numbers on the westerly or left hand side of said streets and avenues. On streets and avenues running from west to east in the city, even numbers shall be used on the southerly side thereof, and odd numbers on the northerly or left hand side thereof. In case of irregular streets, avenues or public places, the several frontages shall be numbered as near as may be according to the uniform series of block numbers, as herein provided, with which they most nearly correspond. (Ord. 266 § 7, 1929).

12.04.080 General plan for assigning numbers.

The following general plan as far as practicable shall be pursued by the street superintendent in assigning the numbers required by this chapter:

(1) On all streets, avenues or public places running from south to north, the premises or frontage at the northwest corner of the intersection of any of the first numbered streets running from west to east upon the present platted portion of the city shall take the hundred number plus one corresponding to the number of the street or avenue so intersecting said north and south street or avenue, and so on, numbering progressively, for said block allotting the even and odd numbers as provided in MMC 12.04.070. Each succeeding block northward taking as an initial number the next consecutive hundred plus one in order.

(2) On all streets, avenues or public places running from west to east, the numbering shall begin at the northeast corner of the intersection of the street, avenue or public place with the number 1101 [one thousand one hundred and one], num-

bering progressively from west to east, each succeeding block eastward, taking as an initial number the next consecutive hundred plus one, allotting the even numbers and the odd numbers as provided in MMC 12.04.070.

(3) On streets and avenues running from west to east the numbering shall commence on the westerly boundaries of the city with the number 1000 and on streets and avenues running from south to north the numbering will commence at First Street with the number 100. (Ord. 266 § 8, 1929).

12.04.090 Assigning numbers to irregular lots.

Whenever by reason of the irregularity of the plats, or for any other reason, there shall be doubt as to the correct number provided for any frontage by this chapter, such number shall be ascertained and defined by the street superintendent and reported to the city clerk and the city clerk shall furnish the number to any owner, occupant or agent of such frontage upon application therefor, and such number shall be deemed to be the number of the frontage as provided by this chapter, upon the further compliance of the applicant with the requirements of MMC 12.04.100. (Ord. 266 § 9, 1929).

12.04.100 Record of numbering – Application for number – Affixing.

A record of such numbering shall be kept by the city clerk in a plat or map provided for that purpose, and such record shall be evidence of the respective numbers or designations aforesaid. The street superintendent under the plat or plats, map or maps, showing the numbers to be assigned to all lots, buildings and frontages situated upon the streets and avenues of the city as above-described, and no owner, or other person, shall affix a street number to any building in the city other than that shown by the record and maps aforesaid as belonging to the location of the building, without having first obtained from the city clerk the number assigned as aforesaid.

The number of all dwellings, business houses or other structures shall be supplied to the owners, agents or occupants of such buildings by the city clerk upon application to him for his certificate thereof. The city clerk shall issue to the applicant therefor a certificate, giving the number, the name of the occupant, agent or owner and the location of the premises to be numbered and shall make a record thereof in his office. The numbers shall be procured by the applicant at his own expense and affixed to the building or place of business to which it belongs in a conspicuous place, either above or at the side of the front entrance of the building or place of business, and shall be thereafter maintained by the owner or agent of the building or place of business. (Ord. 266 § 10, 1929).

12.04.110 Size of figures.

Each of the figures of every number shall be not less than three inches in length and not less than one and one-half inches in width, being so marked as to be easily read. (Ord. 266 § 11, 1929).

12.04.120 Failure to number after notice – Penalty.

Any person being the owner or agent of any building erected in the city of Marysville who, after being notified in writing by the street superintendent that the street numbers are of record at the office of the city clerk, shall for the period of 30 days thereafter neglect or refuse to number any building owned or represented by him as agent, in conformity with the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding the sum of $10.00 and be adjudged to pay the costs of the prosecution. (Ord. 266 § 12, 1929).

12.04.130 Correcting noncomplying number.

If any number shall have been heretofore placed upon or over the doorway or entrance of any building or premises, which number does not conform with the provisions of this chapter, the owner or agent of any such building or premises shall forthwith remove and correct the same. (Ord. 266 § 13, 1929).

12.04.140 Penalty for violations.

Any person, firm or corporation failing to or refusing to comply with any of the provisions of this chapter shall be fined in any sum not exceeding the sum of $10.00 and be adjudged to pay the costs of prosecution. (Ord. 266 § 14, 1929).

Chapter 12.06

CLASSIFICATION OF STREETS

(Repealed by Ord. 2292)

Chapter 12.08

EXCAVATIONS AND OBSTRUCTIONS

Sections:

12.08.010 Permit required to obstruct streets, extend lines and railways, etc.
12.08.020 Conditions for granting permit.
12.08.030 Obstructing without permission declared a nuisance.
12.08.040 Penalty for violations.
12.08.050 Defense in prosecution.

12.08.010 Permit required to obstruct streets, extend lines and railways, etc.

No person or corporation shall build or construct or extend any railroad of any kind or any street railway, telegraph line, telephone line or electric light line, or lay underground any conduit or pipe or pipes for the transmission and distribution of water, illuminating or fuel gas, or other liquid, gas or other thing, in any of the streets, avenues, alleys or other public street in the city of Marysville, without first obtaining a permit therefor from the director of public works or designee; and no person or corporation shall make or cause to be made any excavation of any kind or deposit any material or other thing in any of the streets, avenues, alleys or other public place of the city for the purpose or with the intention of building, constructing or extending any such railroad, street railway, telegraph line, telephone line, electric light line, conduit or pipe or pipes for any such purpose aforesaid without first obtaining such permit from the director of public works or designee. Public works may impose such reasonable restrictions and conditions in granting such permit as it may deem proper; may require a plat or diagram to be filed with the city clerk, showing the line of such proposed improvement and the location upon the street or alley of any such railroad, conduit or pipeline and the location of all poles to be erected; and may require a bond or cash deposit in a sufficient amount, conditioned that the licensee under the permit will restore all street pavements or planking, sidewalk or other street improvements of any kind to as good condition as they were prior to being disturbed under such permit, to the satisfaction of the city engineer. (Ord. 2292 § 6, 1999).

12.08.020 Conditions for granting permit.

If the person or corporation applying to the director of public works or designee for any such permit shall have a valid and existing franchise or permission for the structure desired, under any

valid ordinance of the city, it shall be the duty of the director of public works or designee to grant such permit; provided, that said director of public works or designee shall defer or temporarily refuse the granting thereof, until such time as it deems proper in its discretion in all cases where the street or alley, or other public place on which the work is desired to be done, is occupied or about to be occupied in any work by the city in improving or repairing such street, alley or public place, or in repairing, extending or constructing water mains, sewer pipes or other city property, or in cases where such street, alley or public place is occupied or is about to be occupied by any other person or corporation having a right to use the same, in such manner as to render it seriously inconvenient to the public to permit any further obstruction thereof at said time; and provided further, that the director of public works or designee shall, in granting said permits, so regulate or defer the granting thereof that a sufficient portion of such street, alley or public place shall, as far as possible, be open for public use and for purposes of traffic, and in all cases any work of the city or its contractors or employees shall have precedence over all other work of every kind. (Ord. 2292 § 7, 1999).

12.08.030 Obstructing without permission declared a nuisance.

All railroads, street railways, telegraph lines, telephone lines and electric light lines, and all rails, ties, planks, posts, wires and other structures, apparatus and materials, built, constructed or placed in any street or alley of the city in violation of MMC 12.08.010 shall be deemed public nuisances, and shall be abated with or without action, and other proceedings shall be taken thereon as authorized by law and the ordinances of the city of Marysville for the prevention, abatement and punishment of nuisances, or obstructing streets, alleys or other places in the city. (Ord. 130 § 3, 1906).

12.08.040 Penalty for violations.

Any person who shall violate MMC 12.08.010 or aid in any violation thereof, or order anything to be done in violation thereof, shall be deemed guilty of causing a public nuisance and, on conviction thereof, shall be punished by a fine of not less than $50.00 nor more than $100.00, or by imprisonment in the city or county jail not less than five nor more than 30 days, or by both such fine and imprisonment. (Ord. 130 § 4, 1906).

12.08.050 Defense in prosecution.

It shall be no defense to any prosecution or proceeding under this chapter that a franchise or permission to build or construct such railroad, street railway, telegraph line, telephone line, or electric light line has been granted by any ordinance of the city, but this chapter shall not be construed as to require a permit for the doing of ordinary repairs to any such structure when such repairs are made in good faith and not for the purpose of making any extension to such structure. (Ord. 130 § 5, 1906).

Chapter 12.12

SIDEWALKS – MAINTENANCE BY ABUTTING OWNERS

Sections:

12.12.010 Abutting owner's duty to maintain.
12.12.020 Notification of owner when sidewalk unfit.
12.12.030 Form of notice.
12.12.040 Service of notice.
12.12.050 Failure to correct – City action.
12.12.060 Record of assessment.
12.12.070 Definitions.

12.12.010 Abutting owner's duty to maintain.

Whenever any street, lane, square, place or alley in the city of Marysville, shall have been improved by the construction of a sidewalk or sidewalks along either or both sides thereof, the duty, burden and expense of maintenance, repairs and renewal of such sidewalk or sidewalks shall devolve upon the property directly abutting upon the side of such street or other public place along which such sidewalk has been constructed as herein provided. (Ord. 142 § 1, 1906).

12.12.020 Notification of owner when sidewalk unfit.

Whenever in the judgment of the director of public works or designee the condition of any sidewalk is such as to render the same unfit or unsafe for the purposes of public travel, the department shall notify the owner of the property immediately abutting upon said portion of the sidewalk of the condition thereof, instructing the owner to clean, repair or renew said portion of the sidewalk in such manner as the department shall designate. (Ord. 2292 § 8, 1999).

12.12.030 Form of notice.

The notice mentioned in MMC 12.12.020 shall be addressed to the owner of the property abutting upon the portion of such sidewalk to be cleaned, repaired or renewed; shall specify a reasonable time within which such cleaning, repairing or renewal shall be executed by the owner and the general character of such improvement (when so ordered by the director of public works or designee); and shall be sufficient if substantially in the following form:

> Notice to (clean, repair or renew) sidewalks on _____ Street to _____.
>
> You are hereby notified and instructed to (clean, repair or renew) the sidewalk extending along _____ side of _____ (description), of which property you are the owner, by _____ (give general character of cleaning, repairing or renewal), within ___ days from and after the service of this notice, or in case of your failure so to do the said work will be done by and under the authority of the city of Marysville, at the expense of said property and the cost and expense thereof charged to you and become a lien upon said property in accordance with Chapter 35.69 of the Revised Code of Washington and Chapter 12.12 of the Municipal Code of the City of Marysville; and report made to the city council at its regular meeting to be held at the Public Safety Building in the city of Marysville, on the ___ day of _____, 20__, at the hour of seven p.m. of said day, of an assessment roll, showing the lot or parcel of land immediately abutting on that portion of the sidewalk so improved, the cost of such improvement or repair, and the name of the owner, if known, and that thereupon the council will hear any or all protests against the proposed assessment.
>
> By order of the city council.
> Dated Marysville, Washington, ___, 19__.
>
> /s/_____

When any improvement provided for by this chapter is a renewal of any sidewalk, the time for the execution of the same by a property owner shall not be less than 10 days, which time shall be considered a reasonable time for such renewal. (Ord. 2292 § 9, 1999).

12.12.040 Service of notice.

Service of the notice provided for in MMC 12.12.030 shall be made as follows:

The notice provided for shall be deemed sufficiently served if delivered in person to the owner of the property or his authorized agent, or by leaving a copy of such notice at the home of the owner or authorized agent, or if the owner is a nonresident, by mailing a copy to his last known address, or if the owner of the property be unknown or if his address be unknown, then such notice shall be addressed to the general delivery office of the city wherein the improvement is to be made. (Ord. 142 § 4, 1906).

12.12.050 Failure to correct – City action.

If any such property owner who has been so notified, shall fail for the period of time designated in such notice to execute such cleaning, repairing or renewal of such sidewalk, the city street superintendent shall proceed to clean such sidewalk or to make such repairs or renewal forthwith and report to the city council at its next regular meeting or as soon thereafter as possible, an assessment roll showing the lot or parcel of land immediately abutting on that portion of the sidewalk so improved, the cost of such improvement or repair, and the name of the owner, if known; and the council will hear any or all protests at the time named in the notice against the proposed assessment. The council shall at the time in such notice designated or at an adjourned time or times, assess the cost of such work against the property in accordance with the benefits derived therefrom, which charge shall become a lien upon the property and shall be collected by due process of law. The city street superintendent shall file with said assessment roll, a copy of such notice, with proof of service of the same. (Ord. 142 § 5, 1906).

12.12.060 Record of assessment.

The city clerk shall keep a well-bound book in which shall be entered an abstract of all assessment rolls filed in accordance with MMC 12.12.050, showing a description of the property, the name of the owner thereof, total cost charged to each owner, and the date of filing the assessment roll, and when any property is cleared of the lien by payment, the city clerk shall note the fact upon such book, with the date of payment. (Ord. 2292 § 10, 1999).

12.12.070 Definitions.

For the purpose of this chapter, all property having a frontage upon the sides or margin of any street shall be deemed to be abutting property, and such property shall be chargeable as provided by this chapter for all costs of maintenance, repairs or renewal of any form of sidewalk improvement between the said street margin and the roadway lying in front of and adjacent to said property; and the term "sidewalk" as intended for the purposes of this chapter, shall be taken to include any and all structures or forms of street improvement included in the space between the street margin and the roadway. (Ord. 142 § 7, 1906).

Chapter 12.20

ANIMALS AND VEHICLES ON SIDEWALKS

Sections:

12.20.010 Animals or vehicles on sidewalks – Penalty.
12.20.020 Bicycles on sidewalks – Penalty.
12.20.030 Costs of prosecution – Working off fine.

12.20.010 Animals or vehicles on sidewalks – Penalty.

Any person who shall ride, lead or drive any horse or other animal or move any vehicle other than a light buggy for children or a wheelbarrow upon any sidewalk of the city of Marysville unless for the purpose of necessarily crossing the same shall, upon conviction thereof, be fined not less than $2.00 nor more than $15.00. (Ord. 80 § 17, 1900).

12.20.020 Bicycles on sidewalks – Penalty.

Any person who shall ride a bicycle on any sidewalk on First or Front Street in the city of Marysville, or who shall ride a bicycle on any sidewalk, within the city limits at a greater speed than five miles an hour shall, upon conviction thereof, be fined in any sum not exceeding $25.00. (Ord. 80 § 20, 1900).

12.20.030 Costs of prosecution – Working off fine.

Every violation of the provisions of this chapter shall be deemed a misdemeanor, and any person convicted of any such violation shall be adjudged to pay the costs of prosecution in addition to the penalty imposed, and every person who shall be in default of payment of such fine and costs of prosecution shall be committed to the city jail unless such fine and costs are paid; which imprisonment shall be at the rate of one day's imprisonment for every $2.00 of such fine and costs. (Ord. 80 § 21, 1900).

Chapter 12.22

SIDEWALKS – SITTING OR LYING DOWN ON

Sections:

12.22.010 Sitting or lying down on public sidewalks in downtown commercial zones.
12.22.020 Civil infraction.

12.22.010 Sitting or lying down on public sidewalks in downtown commercial zones.

(1) Prohibition. No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool or other object placed upon a public sidewalk, within the city of Marysville during the hours between 6:00 a.m. and 12:00 midnight.

(2) Exceptions. The prohibition in subsection (1) of this section shall not apply to any person:

(a) Sitting or lying down on a public sidewalk due to a medical emergency;

(b) Who, as a result of a disability, utilizes a wheelchair, walker or similar device to move about the public sidewalk;

(c) Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;

(d) Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;

(e) Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by Chapter 6.37 MMC, Pedestrian Interference.

(3) No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section. (Ord. 2157 § 1, 1997).

12.22.020 Civil infraction.

(1) The violation of MMC 12.22.010 shall be a civil infraction as contemplated by Chapter 7.80 RCW, and deemed to be a Class 3 civil infraction under RCW 7.80.120(d) and shall subject the violator to a maximum penalty and a default amount of $50.00 plus statutory assessments. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty.

(2) As contemplated by RCW 7.80.160, a person who fails to sign a notice of civil infraction or who willfully violates his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. (Ord. 2157 § 1, 1997).

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Chapter 12.24

SIDEWALKS – DANGEROUS CONDITIONS

Sections:

12.24.010 Dangerous condition of sidewalks – Public nuisance.
12.24.020 Obstructing sidewalks – Public nuisances – Exceptions.
12.24.030 Civil liabilities of abutting property owners.

12.24.010 Dangerous condition of sidewalks – Public nuisance.

Any person who shall damage any city sidewalk, or who shall cause or allow the same to be damaged, and any person who is liable for the maintenance, repair and renewal of city sidewalks pursuant to Chapter 12.12 MMC and who fails to comply with said obligation, shall be guilty of committing or maintaining a public nuisance and shall be punished pursuant to MMC 6.24.040. (Ord. 1245 § 1, 1982; Ord. 65 § 7, 1894).

12.24.020 Obstructing sidewalks – Public nuisances – Exceptions.

Any person who shall obstruct a city sidewalk or in any manner render the same impassable or dangerous or inconvenient for public use shall be guilty of committing or maintaining a public nuisance and shall be punished pursuant to MMC 6.24.040; provided, that this section shall not apply to the reasonable use of generally untraveled portions of city sidewalks for the temporary display of retail merchandise by businesses located on immediately abutting properties. Any person using a sidewalk for such purposes shall be liable for and shall indemnify and hold the city harmless from any and all actions or causes of action, claims, demands, liabilities, loss, damage or expense of whatsoever kind or nature which may arise by reason or in consequence of said use of public property. (Ord. 1245 § 2, 1982; Ord. 65 § 8, 1894).

12.24.030 Civil liabilities of abutting property owners.

The owner of property abutting any sidewalk in the city as defined by Chapters 35.69 and 35.70 RCW and by Chapter 12.12 MMC, shall be liable for and shall indemnify and hold the city harmless from any and all actions or causes of action, claims, demands, liabilities, loss, damage or expense of whatsoever kind or nature which may arise by reason or in consequence of any nuisance, as defined in this chapter, existing on the subject sidewalk, or by reason or in consequence of said owner's failure to maintain, repair and renew the subject sidewalk as required by law. (Ord. 905, 1976).

Chapter 12.28

STREET CLOSURE

Sections:

12.28.010 When required.
12.28.020 Publication required – Exception.
12.28.025 Fees for street closure notices.
12.28.030 Penalty for violation.

12.28.010 When required.

Whenever the condition of any city street or any part thereof is such that for any reason its use or continued use by vehicles or by any class of vehicles will greatly damage such city street or will be dangerous to traffic thereon or is being constructed, altered, repaired, improved or maintained in such a manner as to require that such city street or any portion thereof be closed to traffic by all vehicles or any class of vehicles for any period of time, the street superintendent is authorized to close the city street to travel by all vehicles or by any class of vehicles for such a definite period as he shall determine. (Ord. 657 § 1, 1969).

12.28.020 Publication required – Exception.

Before any city street is closed to all vehicles or any class of vehicles, a notice of the date on and after which the city street or any part thereof shall be closed and the definite period of such closing and whether it shall be closed to all vehicles or to vehicles of a particular class or classes shall be published in one issue of a newspaper of general circulation in the city, and a like notice shall be posted on or prior to the date of publication of such notice in a conspicuous place at each end of the city street, provided that no city street or portion thereof shall be closed sooner than three days after the publication and the posting of the notice herein provided for; provided, however, that in cases of emergency, the street superintendent may without publication or delay, close city streets temporarily by posting notices at each end of the closed portion thereof and at all intersecting city streets, and such closures shall be immediately effective. (Ord. 657 § 2, 1969).

12.28.025 Fees for street closure notices.

The fees for street closure notices are set forth in MMC 14.07.005. (Ord. 2106 § 1, 1996).

12.28.030 Penalty for violation.

Any violation of this chapter shall be punishable by a fine of up to $300.00 or by imprisonment for up to 90 days or by both such fine and imprisonment, and in addition shall be liable in a civil action for any damages to such city street as a result of disregarding such closing and using such city street or portion thereof with any vehicle or any class of vehicle to which the same is closed. (Ord. 657 § 3, 1969).

Chapter 12.32

VACATION OF STREETS AND ALLEYS

Sections:

12.32.010 Petition – Filing.
12.32.020 Petition – Scheduling for public hearing – Compensation for vacated area.
12.32.030 Notice of public hearing.
12.32.040 Survey requirements.
12.32.050 Appraisal.
12.32.060 Criteria for council decision.
12.32.070 Authorized by ordinance.
12.32.080 Notice to auditor and assessor.
12.32.090 Use of proceeds of vacation.

12.32.010 Petition – Filing.

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the city council for the vacation of such street or alley, or any part thereof, in the manner provided in this chapter and pursuant to Chapter 35.79 RCW, or the city council may itself initiate, by resolution, such vacation procedure. The petition shall be on such form as may be prescribed by the city and shall contain a full and correct description of the property sought to be vacated. A petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated.

The petition shall be filed with the city clerk, and the petitioners shall pay fees as set forth in MMC 14.07.005. (Ord. 2106 § 9, 1996; Ord. 1271, 1983; Ord. 948 § 1, 1977).

12.32.020 Petition – Scheduling for public hearing – Compensation for vacated area.

(1) Upon receiving a petition or the vacation of a city street or alley, the city clerk shall place the matter upon the agenda of the city council at a regular meeting to be held not fewer than 10, nor more than 30 days, from the date the petition is filed with the city clerk. The city clerk shall notify the petitioners in writing of the date the matter shall come before the city council. The city clerk shall then notify the city engineer and the compliance officer/planner of the petition and the date when the matter will be before the city council, and said officials shall prepare reports relating to the same.

(2) The city council may require the petitioners to compensate the city of Marysville:

(a) Where the street or alley has been part of a dedicated public right-of-way for 25 years or more, an amount that does not exceed the full appraised value of the area vacated;

(b) Where the street or alley has not been part of a dedicated public right-of-way for 25 years or more an amount which equals one-half of the appraised value of the area vacated.

When the vacation is initiated by the city of Marysville, or the city council deems it in the best interest of the city of Marysville, the council may waive all or any portion of such compensation. At the time the city council initially has the petition before it in order to set the matter for public hearing by resolution, the city council shall consider the reports of the city engineer and/or the city planner shall determine whether or not it will require that the city be compensated as a condition of the vacation.

(3) The city council shall, by resolution, fix the time for the hearing of such petition, which time shall not be more than 60 days, nor fewer than 20 days after the passage of such resolution. (Ord. 2396 § 1, 2001; Ord. 948 § 2, 1977).

12.32.030 Notice of public hearing.

(1) On the passage of the resolution provided for in MMC 12.32.020, the city clerk shall give 20 days' notice of the pendency of the petition by a written notice posted in three of the most public places in the city and a like notice in conspicuous place on the street or alley sought to be vacated. The notice shall contain a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition.

(2) In all cases where the proceeding is initiated by resolution of the city without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, in addition to notice required in subsection (1) of this section, there shall be given by mail, at least 15 days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street or alley, or any part thereof, sought to be vacated, as shown on the rolls of the county treasurer, directed to the addresses thereon shown. Failure to send notice by mail to any such property owner where the current address of such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation. (Ord. 948 § 3, 1977).

12.32.040 Survey requirements.

It shall be the duty of the city engineer to determine whether or not the location and legal description of the street or alley proposed for vacation are sufficiently known to the city so that an accurate legal description of the proposed vacation can be known with certainty. If the city engineer determines that these matters are not known or are not accurately known, then the city shall notify the petitioners of the necessity of having an accurate, professional survey of the property proposed for vacation within the boundaries of the proposed vacation marked upon the ground with an accurate legal description of the proposed vacation to be furnished to the city. The city shall not proceed further upon the vacation petition until such a survey has been done and legal description has been received. (Ord. 948 § 4, 1977).

12.32.050 Appraisal.

In all cases where the city council requires compensation for the vacated right-of-way, an appraisal of the right-of-way proposed for vacation shall be made by one or more of the following methods:

(1) The assessed value of comparable abutting property shall be obtained from the records of the Snohomish County assessor. The average of said values, on a square foot basis, shall be applied to the right-of-way which is proposed for vacation.

(2) The petitioner shall be required to submit a report of a professional appraiser to the city, stating the fair market value of the right-of-way proposed for vacation.

(3) The city shall obtain a report from one or more professional appraisers stating the fair market value of the right-of-way proposed for vacation. The cost of said report or reports shall be paid by the petitioner prior to the time of the public hearing. (Ord. 2321 § 1, 2000; Ord. 1170, 1981; Ord. 948 § 5, 1977).

12.32.060 Criteria for council decision.

(1) The city council shall not vacate any street, alley or any parts thereof if any portion thereof abuts any body of salt or fresh water unless such vacation is sought to enable the city or state to acquire the property for port purposes, boat moorage or launching sites, park, viewpoint, recreational or educational purposes or other public uses. This provision shall not apply to industrial-zoned property.

(2) The city council shall use the following criteria for deciding upon the petition:

(a) The vacation will provide a public benefit, and/or will be for a public purpose;

(b) The right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole;

(c) The public need shall not be adversely affected;

(d) The right-of-way is not contemplated or needed for future public use;

(e) No abutting owner will become landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient; provided that the city council may, at the time of its public hearing, determine that the city may retain an easement or right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services.

(3) The city council will, at the time of the public hearing, determine the amount of compensation to be paid to the city by the petitioners as a condition of the vacation, which amount shall not exceed one-half of the appraised value of the area to be vacated; except, that in the event the subject property or portions thereof were acquired at public expense, the city may require compensation in an amount equal to the full appraised value of the area to be vacated. (Ord. 1452, 1986; Ord. 948 § 6, 1977).

12.32.070 Authorized by ordinance.

If the city council determines to grant the petition provided for in MMC 12.32.010, or any part thereof, the council shall authorize by ordinance the vacation of such street or alley, or any part thereof. Such ordinance may provide for the retention by the city of all easements or rights in respect to the vacated land for the construction or repair and maintenance of public utilities and services. If the city council determines that compensation shall be paid as a condition of the vacation, then the ordinance shall not be published or become effective until the compensation has been paid by the petitioners. (Ord. 948 § 7, 1977).

12.32.080 Notice to auditor and assessor.

A certified copy of the ordinance vacating any street or alley, or part thereof, shall be filed by the city clerk with the Snohomish County auditor's office and with the Snohomish County assessor's office. (Ord. 948 § 8, 1977).

12.32.090 Use of proceeds of vacation.

One-half of the revenue received by the city as compensation for area vacated, under this chapter, shall be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city. (Ord. 2396 § 2, 2001).

Chapter 12.36

VEGETATION

Sections:

12.36.010 Obstructing right-of-way visibility – Public nuisance.
12.36.020 Abatement – Order.
12.36.030 Abatement – City action.

12.36.010 Obstructing right-of-way visibility – Public nuisance.

All vegetation which is permitted to grow within 20 feet of the right-of-way line of any public street or alley within the city of Marysville is a public nuisance if it is determined by the chief of police to be a safety hazard because it obstructs visibility on the traveled portion of the right-of-way, or because it obstructs visibility of traffic-control signs located thereon. (Ord. 999 § 1, 1978).

12.36.020 Abatement – Order.

Upon determination by the chief of police that vegetation constitutes a public nuisance pursuant to MMC 12.36.010, the chief of police shall cause an abatement order to be mailed to the owner of the subject property, as shown on the current tax rolls of the Snohomish County treasurer. Further, the chief of police shall cause a copy of said abatement order to be served upon the occupant of the subject property, or if there is no occupant, said abatement order shall be posted on the subject property. The abatement order shall define the public nuisance and shall require the abatement thereof in not less than 30 days from the date of said order. It shall state that failure to comply with said order will result in abatement of the public nuisance by the city, and liability for the costs of such abatement, plus a 10 percent surcharge, shall be borne by the owner of the subject property. (Ord. 999 § 2, 1978).

12.36.030 Abatement – City action.

If a public nuisance is not abated in compliance with an abatement order, as provided in MMC 12.36.020, the chief of police may cause such nuisance to be removed or abated, and the owner of the subject property shall become indebted to the city for the costs incurred by the city in the removal of such nuisance, plus a 10 percent surcharge. Further, the city may file a lien against the subject property in the amount of such costs and surcharge. (Ord. 999 § 3, 1978).

Chapter 12.40

CLEAN CONDITION OF PUBLIC RIGHT-OF-WAY

Sections:

12.40.010 Duty to maintain clean right-of-way.
12.40.020 Public nuisance – Abatement.
12.40.030 Criminal penalty.

12.40.010 Duty to maintain clean right-of-way.

No person or party shall willfully or negligently cause or allow any dirt, mud, rocks, vegetation, grease, oil or other foreign material or substance to be deposited, stored, abandoned, discharged or spread on any public street, alley, sidewalk or other public right-of-way in the city. (Ord. 1456-A, 1986).

12.40.020 Public nuisance – Abatement.

Any act or omission defined in MMC 12.40.010 shall constitute a public nuisance. Upon notice by a city official to the party causing or allowing said public nuisance, said party shall abate the same to the satisfaction of the city within 24 hours of being so notified. If the party fails to abate the nuisance as required, the city may proceed to clean the public right-of-way with its own labor and equipment, and the direct costs thereof, plus a 25 percent surcharge, shall be charged to the responsible party. Said party shall pay the same to the city within 10 days of receiving an invoice. (Ord. 1456-A, 1986).

12.40.030 Criminal penalty.

Every person or party who shall commit or maintain a public nuisance as defined in this chapter, or who shall willfully omit or refuse to perform any legal duty relating to the removal of such nuisance, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed $500.00. (Ord. 1456-A, 1986).

Title 13

(Reserved)

Title 14

WATER AND SEWERS[1]

Chapters:

14.01 General Provisions
14.03 Rules for Construction, Installation and Connection
14.05 Rules for Customers – Payment and Collection of Accounts
14.07 Fees, Charges and Reimbursements
14.08 Water Shortage Emergency
14.09 Water and Sewer Conservation Measures
14.10 Water Supply Cross-Connections
14.15 On-Site Storm Water Drainage Code
14.16 Public Storm Drainage System Code
14.17 Private Storm Water Disposal Systems
14.18 Storm Water Drainage Assessments in Certain Designated Drainage Basins
14.19 Surface Water Utility
14.20 Wastewater Pretreatment
14.32 Utility Service Area

1. For provisions regarding the plumbing code, see Chapter 16.08 MMC; for statutory provisions regarding municipal water and sewer facilities act generally, see Chapter 35.91 RCW.

Chapter 14.01

GENERAL PROVISIONS

Sections:

14.01.010 Combined utility system.
14.01.020 Ownership of lines.
14.01.030 Application for utility service.
14.01.040 Water service required for sewer customers.
14.01.045 Water service unavailable for sewer customers of other jurisdictions.
14.01.050 Utility connections required.
14.01.060 Rights inspection and access.
14.01.070 Criminal penalties.
14.01.080 Civil action for damages.

14.01.010 Combined utility system.

The water and sanitary sewer systems of the city of Marysville, including all additions, extensions and betterments of the same, shall be owned, operated, administered and financed as a single utility under the exclusive jurisdiction of the city. (Ord. 1434, 1985).

14.01.020 Ownership of lines.

The city owns all utility lines constructed by it, or conveyed to and accepted by it, or which it has maintained and operated for a period of not less than 10 years. The city disclaims ownership of any collection, distribution, supply or transmission main which is not located within public property or public easement. The city reserves the right to disclaim ownership of any privately constructed water or sewer main which was not built to city specifications. The city shall have no maintenance, repair or replacement obligation with respect to lines which it does not own. (Ord. 1434, 1985).

14.01.030 Application for utility service.

The owner of any property desiring to connect to the city water or sewer system shall personally apply for the connection on such forms as may be prepared and made available by the city utility department. No such application shall be deemed accepted or granted by the city, and no vested rights to utility service shall accrue, unless and until all prerequisites for approval, as specified by ordinance or resolution, are complied with in full and to the satisfaction of the city. For properties located outside of the city limits, the provisions of Chapter 14.32 MMC (USA[1] Code) shall apply. Following approval by the city, the applicant shall pay all required fees and charges. No utility connections shall be made until the fees and charges are paid in full. If the application is for both water and sewer service, all fees and charges must be paid for both utilities before either one is connected. (Ord. 2375 § 1, 2001; Ord. 1434, 1985).

14.01.040 Water service required for sewer customers.

(1) The city shall not permit any property located outside the city limits of Marysville to connect to city sewer service unless such property, including all occupied structures thereon, is also connected to city water service. Properties located within the Marysville city limits, including all occupied structures thereon seeking connections to city sewer, shall also be required to connect to water service from the city or from some other public agency whose system meets minimum city standards.

(2) The city council shall have the authority to grant variance from the requirements of subsection (1) of this section. Application for such a variance shall be filed, in writing, with the city clerk, together with a filing fee of $50.00. The applicant shall be given 10 days' notice from the date on which the city council shall consider the variance. The city council is authorized to issue variances that allow connections to sewer service without water service only if it is found that it would cause a practical difficulty to require the extension of water service by reason of circumstances which are unique to the applicant's property and not generally shared by other properties in the vicinity. No variance will be granted which would be detrimental to the public health, welfare or environment, or which would be inconsistent with the long-range plans of the Marysville utility system. Conditions may be imposed upon the granting of a variance to ensure the protection of the public health, welfare and environment, and in the interest of justice. Each variance shall be considered on a case-by-case basis, and it shall not be construed as setting precedent for any subsequent application. The decision of the city council on the variance application shall be final, subject to appeal to the Snohomish County superior court within a 20-day period thereafter. (Ord. 1853 § 1, 1991; Ord. 1546, 1987; Ord. 1434, 1985).

14.01.045 Water service unavailable for sewer customers of other jurisdictions.

(1) The city shall not provide water service to any property if such property, at any time, is connected to a public sewer service supplied by another

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jurisdiction or utility purveyor. This restriction shall apply both inside and outside the city limits.

(2) The city council shall have the authority to grant a variance from the restrictions of subsection (1) of this section. Application for such a variance shall be filed in writing with the city clerk, together with a filing fee of $50.00. The applicant shall be given 10 days' notice of the date on which the city council shall consider the variance. The city council is authorized to issue such variances only if it is found that it would cause a practical difficulty to require the extension of city sewer service to the property by reason of circumstances which are unique to said property and not generally shared by other properties in the vicinity. No variance will be granted which would be detrimental to the public health, welfare or environment, or which would be inconsistent with the long-range plans of the Marysville utility system. Conditions may be imposed upon the granting of a variance to ensure protection of public health, welfare and environment, and in the interest of justice, each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for any subsequent application. The decision of the city council on a variance application shall be final subject to appeal to the Snohomish County Superior Court within a 20-day period thereafter. (Ord. 1767, 1990).

14.01.050 Utility connections required.

(1) The owner of any property within the city limits which is not connected to city water service or city sewer service, or both, shall be required to extend any utility line which is within 200 feet of the structure to be served, as measured along the usual or most feasible route of access, and to connect to the same for all occupied structures on the property under any of the following circumstances:

(a) Upon construction of a new building or structure which is designed for occupancy; or

(b) Upon construction of any additions, alterations or repairs within any 12-month period which exceed 50 percent of the value of an existing building or structure which is designed for occupancy; or

(c) Upon any change in the occupancy classification of an existing building or structure on the property; or

(d) Upon the failure of the on-site sewage disposal system on the property.

(2) The owner of any property outside of the city limits, but within the utility service area, which is connected to public water service shall be required to extend the city's sanitary sewer and connect to the same for all occupied structures on the property only if such structures, or any of them, are within 200 feet of the existing sanitary sewer, as measured along the usual and most feasible route of access, and only under the following circumstances:

(a) Upon construction of a new building or structure which is designed for occupancy; or

(b) Upon construction of any additions, alterations or repairs within any 12-month period which exceed 50 percent of the value of an existing building or structure which is designed for occupancy; or

(c) Upon any change in the occupancy classification of an existing building or structure on the property; or

(d) Upon the failure of the on-site sewage disposal system on the property.

(3) The city council shall have authority to grant variances from the requirements of subsections (1) and (2) of this section. Applications for such variances shall be filed, in writing, with the city clerk, together with a filing fee of $50.00. The applicant shall be given 10 days' notice of the date on which the city council shall consider the variance. The city council is authorized to issue such variances only if it is found that it would cause a practical difficulty to require the extension or connection of the utility service by reason of circumstances which are unique to the applicant's property and not generally shared by other properties in the vicinity. No variance shall be granted which would be detrimental to the public health, welfare or environment, or which would be inconsistent with the long-range plans of the Marysville utility system. Conditions may be imposed upon the granting of a variance to ensure the protection of the public health, safety and environment, and in the interest of justice. Each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for any subsequent application. The decision of the city council on the variance application shall be final, subject to appeal to the Snohomish County superior court within a 20-day period thereafter. (Ord. 2375 § 2, 2001; Ord. 1547, 1987; Ord. 1434, 1985).

14.01.060 Rights inspection and access.

City officials, employees and agents shall have the right to enter upon private property at all reasonable times to inspect and test appliances, utility lines and appurtenances which are connected to the city utility system. (Ord. 1434, 1985).

14.01.070 Criminal penalties.

It shall constitute a misdemeanor for any person or party to commit, authorize, solicit, aid, abet or attempt the following unlawful acts:

(1) Divert or cause to be diverted utility services by any means whatsoever;

(2) Make or cause to be made any connection or reconnection with the city utilities without the authorization or consent of the city;

(3) Discharge any substance prohibited by MMC 14.05.020, including effluent from private water facilities, into the city's sewer system without the authorization or consent of the city;

(4) Prevent any utility meter or other device used in determining the charge for utility services from accurately performing its measuring function by tampering or by any other means;

(5) Tamper with any property owned or used by the city to provide utility services;

(6) Use or receive the direct benefit of all or a portion of the utility service with knowledge of, or reason to believe that, the diversion, tampering or unauthorized connection existed at the time of the use or that the use or receipt was without the authorization or consent of the city.

Said criminal acts shall be punishable by a fine not to exceed $1,000. Each day that a violation continues shall constitute a separate offense. The criminal penalties provided in this section shall be construed as being cumulative with civil damages provided in MMC 14.01.080. (Ord. 1434, 1985).

14.01.080 Civil action for damages.

The city may bring a civil action for damages against any person or party who commits, authorizes, solicits, aids, abets or attempts any of the following:

(1) Divert or cause to be diverted utility services by any means whatsoever;

(2) Make or cause to be made any connection or reconnection with the city utilities without the authorization or consent of the city;

(3) Discharge any substance prohibited by MMC 14.05.020, including effluent from private waste facilities, into the city's sewer system without the authorization or consent of the city;

(4) Prevent any utility meter or other device used in determining the charge for utility services from accurately performing its measuring function by tampering or by any other means;

(5) Tamper with any property owned or used by the city to provide utility services;

(6) Use or receive the direct benefit of all or a portion of the utility service with knowledge of, or reason to believe that, the diversion, tampering or unauthorized connection existed at the time of the use or that the use or receipt was without the authorization or consent of the city.

In any civil action brought under this section, the city may recover from the defendant as damages three times the amount of actual damages, if any, plus the costs of the suit and reasonable attorney's fees, plus the costs incurred on account of the bypassing, tampering, or unauthorized reconnection, including but not limited to costs and expenses for investigation, disconnection, reconnection, service calls and expert witnesses.

If the damage is done to utility property which is located on premises which are served by city utility service and which are owned or occupied by the party or parties responsible for the damage, the judgment may be added to the utility bill for the premises and may be collected pursuant to Chapter 14.05 MMC. (Ord. 1434, 1985).

Chapter 14.03

RULES FOR CONSTRUCTION, INSTALLATION AND CONNECTION

Sections:

14.03.010 Specification manual.
14.03.020 Standard specifications for municipal public works construction.
14.03.030 Location of utility lines – Easements.
14.03.035 Construction setbacks from utility lines.
14.03.040 Water meters.
14.03.050 Fire hydrants.
14.03.060 Maximum distance for water service connections.
14.03.070 Developer-installed water service connections.
14.03.080 Water supply cross-connections.
14.03.090 Utility connections to unoccupied properties prohibited and/or forfeited.
14.03.200 Private sewer lines.
14.03.300 Frontage requirements – Water and sewer.
14.03.400 Registered engineer required.
14.03.410 As-built drawings.
14.03.420 Conveyance to city.
14.03.430 Insurance, bonding and indemnification.
14.03.500 Variances.

14.03.010 Specification manual.

By resolution the city council may adopt a specification manual establishing rules, regulations and technical specifications relating to the construction of utility lines and the installation and connection of utility services. Copies of the specification manual shall be available for inspection during all business hours of the city at the office of the city clerk and at the office of the utility department. Copies may be purchased in accordance with the fees set forth in MMC 14.07.005. The specification manual may be amended by resolution of the city council. In any instance where the specification manual conflicts with the provisions of this chapter, the provisions of this chapter shall govern. (Ord. 2106 § 10, 1996; Ord. 1434, 1985).

14.03.020 Standard specifications for municipal public works construction.

All materials and construction methods used for extensions and additions to the city utility system shall conform to the most current edition of the standard specifications for road, bridge and municipal construction as prepared by the Washington State Department of Transportation and the American Public Works Association, Washington State Chapter, as the same may be modified by the city's specification manual. (Ord. 1434, 1985).

14.03.030 Location of utility lines – Easements.

(1) All public utility lines shall be installed in public streets or alleys or in easements which have been granted to and accepted by the city for such purposes.

(2) Utility easements granted to the city shall be not less than 10 feet in width; provided, that when such easements extend from the end of an existing public road, or extend along the alignment of any anticipated future public road, such easement shall be not less than 20 feet in width. (Ord. 1434, 1985).

14.03.035 Construction setbacks from utility lines.

No structure shall be erected within utility easements. Further, all structures shall be set back a minimum of 10 feet from the center of any utility line, as-built. (Ord. 1786, 1990; Ord. 1726, 1989).

14.03.040 Water meters.

The consumption and use of all water taken from the city water system shall be metered at each individual connection. Water meters shall meet the specifications of the city and shall be the property of the city utility system. Individual water meters shall be required for each detached single-family residence. A master meter may be used for duplexes, multiple-family dwellings, condominiums and mobile home parks where there is single ownership or centralized administration. Water meters shall be required for each commercial, industrial and public facility connection. All water meters shall be placed within public right-of-way, or within an easement granted to the city, and shall be directly accessible at all times by city employees. (Ord. 1434, 1985.)

14.03.050 Fire hydrants.

(1) Fire hydrants meeting city specifications shall be installed on all extensions of the city water system at the time such extensions are constructed. All hydrants shall be owned and maintained by the city. The location and frequency of fire hydrants shall be specified by the city utility department and fire department; provided, that fire hydrants in single-family residential zones shall be spaced not more than 600 feet apart, and fire hydrants in multiple-family, commercial and industrial zones shall

be spaced not more than 300 feet apart. All fire hydrants shall have three ports.

(2) No person shall plant any vegetation, erect any structure or perform any action which results in obstructing the view of a fire hydrant for a distance of 50 feet. The owner and/or occupant of any area in which a hydrant is located shall be responsible for removing weed and tree growth from around the hydrant for a distance of not less than 10 feet. (Ord. 1434, 1985).

14.03.060 Maximum distance for water service connections.

The length of any water service connection owned by the city (i.e., the line between the water main and the water meter), and the length of private water lines (i.e., the line between the water meter and the building) shall be subject to approval of the utility department. As a guideline, 110 feet should be the maximum length for a service connection, and 500 feet should be the maximum length for a private line. (Ord. 1434, 1985).

14.03.070 Developer-installed water service connections.

A developer may install his own water service connections, including the meter box (but excluding the meter), provided that it complies with all specifications of the city. In cases of new subdivisions, the developer shall install all water service connections. Installation of service connections shall be coincident with the installation of the water main. Service connections shall be shown on a water extension drawing and shall be subject to approval by the utility department. Service connections shall be conveyed to the city as a condition of obtaining water service. (Ord. 1434, 1985).

14.03.080 Water supply cross-connections.

The provisions of Chapter 14.10 MMC relating to water supply cross-connections are incorporated herein by this reference. (Ord. 1434, 1985).

14.03.090 Utility connections to unoccupied properties prohibited and/or forfeited.

(1) The city shall not sell utility connections, accept payment for capital improvement fees or allow the installation of water meters, for any unoccupied property or any property which is the subject of a pending development application until such time as all water and sewer utility infrastructure has been constructed and approved and either final plat approval, final binding site plan approval, final commercial/multifamily site plan approval, conditional use permit approval, or a building permit for previously platted individual lots is or has been issued.

(2) Any property connected to city utilities with a two-inch water meter, or larger, which remains unoccupied for 12 consecutive months, or uses no utility services for 12 consecutive months, shall forfeit its vested right to a utility connection, and at such time as it seeks to reactivate its connection it shall be subject to then-prevailing rules and regulations regarding utility availability for new customers. (Ord. 2557 § 1, 2004; Ord. 2375 § 3, 2001; Ord. 1810, 1990).

14.03.200 Private sewer lines.

A sewer line constructed on private property from the boundary of the public right-of-way/easement to the structure being served shall be privately owned and maintained. A private sewer shall serve no more than one lot. As a guideline, a private sewer shall be no longer than 500 feet, subject to approval by the utility department. A private sewer shall not cross any lot under different ownership without express approval by the city of all legal documents authorizing the same. The construction of all private sewers shall conform to the specifications of the city, including the depth, grade, and installation of inspection tees and points of connection; cleanouts shall be installed at least every 100 feet along a private sewer. Only authorized employees of the city utility department may connect any private sewer to a public sewer.

The utility department may require the installation of a grease, oil or sand interceptor, or any combination of these, on any private sewer line where it is deemed necessary to intercept excessive amounts of these materials. These interceptors shall be installed on private property and maintained in a satisfactory manner by the owner of the private sewer line.

Maintenance, repair and replacement of all private sewers is the responsibility of the owner. If the city determines that such work is necessary to protect the integrity of the public sewer system, written notice shall be sent to the owner specifying the time and manner in which the work must be completed. If the owner fails to comply with the notice the city may forthwith cause the work to be done and charge the cost thereof, plus 20 percent, to the owner. (Ord. 1434, 1985).

14.03.300 Frontage requirements – Water and sewer.

All lots connecting to city water shall have frontage on a distribution main; all lots connecting

to city sewer shall have frontage on a collection main. At the time of connection, the property owner shall be required to extend the main(s) for the full public or private road frontage of the lot on which the structure to be connected is located, including both frontages of a corner lot. If the lot does not front on a public or private road for its full width, the main(s) shall be extended to the boundary line of the nearest adjoining lot which may be anticipated to require connection to the main(s) in the future. If it can be shown that no future expansions beyond the applicant's lot will occur, a variance may be applied for pursuant to the provisions of MMC 14.03.500. (Ord. 2375 § 4, 2001; Ord. 1646, 1988; Ord. 1434, 1985).

14.03.400 Registered engineer required.

The design and construction of water and sewer mains which are to be connected to the city utility system shall be supervised by a registered professional engineer of the state of Washington. Details and methods of construction shall conform to the city specifications manual. All construction shall be subject to inspection and approval by the city. Responsibility for providing line and grade and taking measures for as-built drawings shall rest upon the owner's engineer. (Ord. 1434, 1985).

14.03.410 As-built drawings.

As-built drawings of the completed installation of the utility lines shall be submitted to the city utility department for approval by the city engineer. (Ord. 1434, 1985).

14.03.420 Conveyance to city.

All extensions to the public utility system shall be conveyed to the city by bill of sale and shall be accompanied by a warranty of the grantor that the utility lines and appurtenances are free of debt and were constructed in accordance with city standards and specifications. The grantor shall further warrant the labor and materials used in the construction for a period of one year from the date of the conveyance to the city and shall indemnify and hold the city harmless from any damages arising from defective materials or workmanship. If the lines cross private property the grantor shall convey to the city the required easements for constructing, repairing, maintaining, altering, changing, controlling and operating the lines in perpetuity. (Ord. 1434, 1985).

14.03.430 Insurance, bonding and indemnification.

Any party installing, repairing, extending or modifying utility lines in public right-of-way/easement, which lines are connected, or to be connected, to the city's utility system, shall comply with the following:

(1) Prior to commencing work, a restoration bond shall be posted in such amount as is required by the governmental agency having jurisdiction over the public right-of-way.

(2) Prior to commencing work, a performance bond shall be posted in such amount as is required by the city engineer. The bond shall guaranty expeditious completion of the project in compliance with the approved plans and specifications, and shall warranty the materials and workmanship for a period of one year after acceptance by the city.

(3) Prior to commencing work, proof of insurance shall be submitted with property damage limits of not less than $300,000, and bodily injury limits of not less than $500,000 per person and $1,000,000 per accident. The city of Marysville shall be named as an additional insured party.

(4) The party performing the work, its heirs, successors and assigns, shall indemnify the city of Marysville, and hold it harmless, from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person or persons or property by reason of the performance of such work, the character of materials used, the manner of installation, or by improper occupancy of rights-of-way. In case any suit or action is brought against the city for damages arising out of or by reason of any of the above causes, the party, its heirs, successors and assigns, shall defend the same at its own cost and expense and shall satisfy any judgment after the suit or action shall have been determined, if adverse to the city, and further shall reimburse the city for reasonable attorney's fees expended by the city in connection with the same. (Ord. 1434, 1985).

14.03.500 Variances.

The city engineer shall have authority to administratively grant a variance from any rule, regulation or requirement of this chapter or of the specifications manuals incorporated in this chapter by reference. Application for such a variance shall be filed, in writing, with the city clerk together with a filing fee as set forth in MMC 14.07.005A. The city engineer is authorized to issue variances in cases of special hardships, unique circumstances and practical difficulties. No variance shall be granted which would be detrimental to the public

health, welfare or environment, or which would be inconsistent with the long-range plans of the Marysville utility system. Conditions may be imposed upon the granting of a variance to ensure the protection of the public health, welfare and environment. Each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for any subsequent application. The decision of the city engineer on a variance application shall be final, subject to appeal to the city land use hearing examiner pursuant to the procedure of Chapter 2.70 MMC and Chapter 15.11 MMC within a 20-day period after the written decision of the city engineer. (Ord. 2375 § 5, 2001; Ord. 2106 § 11, 1996; Ord. 1434, 1985).

Chapter 14.05

RULES FOR CUSTOMERS – PAYMENT AND COLLECTION OF ACCOUNTS

Sections:

14.05.010 Rules for water shortage emergencies.
14.05.020 Discharge restrictions into sanitary sewers.
14.05.030 Utility bills – Delinquent accounts – Liens.
14.05.040 Delinquent bills – Service charge.
14.05.050 Surcharge for NSF checks.
14.05.060 Voluntary discontinuance of water service.
14.05.070 Involuntary discontinuance of water service.
14.05.080 Disconnection and reconnection charges.
14.05.090 Fees for utility search services.

14.05.010 Rules for water shortage emergencies.

The provisions of Chapter 14.08 MMC relating to water shortage emergencies are incorporated by reference. (Ord. 1434, 1985).

14.05.020 Discharge restrictions into sanitary sewers.

No person or party shall discharge, or cause to be discharged, into any sanitary sewer line or facility, the following:

(1) Any storm water, surface water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters;

(2) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;

(3) Any water or waste which may contain more than 100 parts per million by weight of oil, fat or grease;

(4) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(5) Any garbage that has not been properly shredded to a size of one-half inch in any direction;

(6) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in the sewers or other interference with the proper operation of the sewage treatment system;

(7) Any waters or wastes having a pH lower than five and five-tenths or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage system;

(8) Any waters or wastes containing a toxic or poisonous substance in a sufficient quantity to injure or interfere with any sewage treatment process or constitute a hazard to humans or animals or create any hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment system;

(9) Any waters or wastes containing more than 750 mg/l (parts per million) by weight of suspended solids;

(10) A five-day biochemical oxygen demand greater than 750 mg/l (parts per million) by weight;

(11) Any noxious or malodorous gas or substance capable of creating a public nuisance;

(12) Any waters or wastes having an average daily flow greater than two percent of the average daily sewage flow of the public sewage system into which the waters or wastes are about to be discharged;

(13) Any discharge which exceeds the maximum mass emissions limit for average pounds per day of biochemical oxygen demand calculated as follows: (2% of the maximum daily sewage flow permitted for the city's wastewater treatment facility) x (300 mg/liter) x (8.34). (Ord. 2531 § 1, 2004; Ord. 1797, 1990; Ord. 1434, 1985).

14.05.030 Utility bills – Delinquent accounts – Liens.

Combined billing statements for the garbage, water and sewer utilities shall be sent to all customers on a regular and periodic basis to be determined by the city clerk. All bills shall be mailed to the address of the owner of the property being served by the utilities, as the address appears in the records of the city utility department. Upon written request of an owner, billing statements may be sent directly to the occupant of the property being served; however, in such cases the owner shall remain ultimately liable for payment of the bill, and the property shall remain subject to a lien for a delinquent account, as provided below.

All payments on utility bills shall be applied first to the garbage account, second to the sewer account, and third to the water account. In the event that any fees or charges assessed for such services are not paid within 30 days after mailing of the bills for such services, they shall be considered delinquent and shall automatically constitute a lien against the property to which the services were rendered. Such a lien, for up to four months of charges, shall encumber the property, and shall be the obligation of the owner of the property, its heirs, successors and assigns, until the same is paid in full. The city may enforce the lien by shutting off water, sewer and/or garbage service until all delinquent and unpaid charges are paid in full; provided, that discontinuance of service shall be subject to the provisions of MMC 14.05.070. (Ord. 1434, 1985).

14.05.040 Delinquent bills – Service charge.

For each notice sent to a utility customer advising the customer that an account is delinquent or that utility service will be discontinued by reason of the delinquency, there shall be a service charge added to the account as set forth in MMC 14.07.005. The finance director, or his designee, is authorized to waive the service charge under the following circumstances:

(1) Where a utility customer has made arrangements with the city, prior to the date the billing is due, for deferral of the payment of the bill;

(2) Where another public agency must obtain approval for payment of the billing and the customer's payment cycle is inconsistent with the city's billing cycle; or

(3) In such other circumstances where, in the judgment of the finance director or his designee, the customer can demonstrate a bona fide economic hardship. (Ord. 2106 § 12, 1996; Ord. 1861, 1991; Ord. 1434, 1985).

14.05.050 Surcharge for NSF checks.

If a utility account is dishonored by the drawer's bank by reason of insufficient funds, a surcharge, as set forth in MMC 14.07.005, shall be added to the utility account. (Ord. 2106 § 13, 1996; Ord. 1434, 1985).

14.05.060 Voluntary discontinuance of water service.

(1) A customer may request voluntary discontinuance of water service during periods that the premises are vacant. Three days' advance notice of such discontinuance shall be given to the city, and the customer shall pay the city any delinquent fees or charges, plus a shutoff fee as specified in MMC 14.07.005. Following such discontinuance, no fees for water or sewer service shall accrue, and no liens shall accumulate, until the service is reconnected.

(2) In the event that the occupants of premises have allowed delinquent utility bills to accrue, the owner of the premises, or the owner of a delinquent mortgage thereon, may give the city written notice to discontinue water service. The notice shall be accompanied by payment of all delinquent and unpaid charges owed to the city with respect to the premises, together with a shutoff charge, as specified in MMC 14.07.005. The city shall then discontinue water service to the premises, and no fees,

charges or liens shall accrue thereafter with respect to the premises until the service is reconnected. (Ord. 2106 § 14, 1996; Ord. 1434, 1985).

14.05.070 Involuntary discontinuance of water service.

(1) Water service may be discontinued by the city for any of the following reasons:

(a) For delinquent and unpaid charges, as specified in MMC 14.05.030;

(b) For the use of water and sewer utilities for purposes or properties other than that specified in the application;

(c) For willful waste of water through improper or imperfect piping, equipment or otherwise;

(d) When a customer's piping or equipment does not meet the city's standards, or fails to comply with other applicable codes and regulations;

(e) For tampering with property of the city utility system;

(f) In case of vacation of the premises by the customer;

(g) For the use of the utility lines in a manner which adversely affects the city's service to its other customers;

(h) For fraudulent or improper obtaining or use of utility service.

(2) Except in the case of danger to life or property, fraudulent use, impairment of service, or violation of law, the city shall use its best efforts to comply with the following procedures prior to an involuntary discontinuance of service:

(a) The city shall send the owner and occupant of the premises, using addresses shown in the city utility records, written notice that water service to the property will be shut off on a date not less than 10 days thereafter unless the delinquencies are paid in full. The notice shall state that the owner and occupant of the premises have a right to a hearing before the city administrator for the purpose of resolving disputed accounts. A request for such a hearing must be made not less than five days prior to the shutoff date. At the hearing the city administrator is authorized to compromise and settle disputes in the interest of justice; provided, the city administrator shall not be authorized to waive or reduce bills which are legitimately due, or to lend the city's credit by allowing a deferred payment schedule.

(b) If service is not discontinued within three days after the stated shutoff date, unless other mutually acceptable arrangements have been made, the shutoff notice shall become void and a new notice shall be required before the service can be disconnected thereafter.

(c) In the event of a disputed account, at any time before the city shuts off service, the owner or occupant of the premises may tender the amount he claims to be due; provided, that the amount must be reasonably supported by document evidence. The right of the city to thereafter shut off service shall not accrue until the dispute has been administratively or judicially resolved.

(d) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays or any day on which the city cannot reestablish service on the same or following day.

(e) Where service is provided to a master meter, or where the city has reasonable grounds to believe that service is to other than the customer of record, the city shall undertake all reasonable efforts to inform the occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, an additional five days shall be allowed prior to shutoff to permit the service users to arrange for continued service.

(f) When a city employee is dispatched to disconnect service, that person shall be authorized to accept payment of a delinquent account, plus disconnection and reconnection charges, at the service address if the same is tendered by a check made payable in the exact amount to the order of the city of Marysville.

(g) Charges for disconnection and reconnection of water service, as specified in MMC 14.05.080, shall be added to the account, and shall be paid in full prior to reconnection.

(3) At any time that an owner or occupant of premises requests a closing statement on a water account, or requests a change of the customer's name on such account, the city shall read the water meter and shall issue a statement showing the then-current account balance. If the account is in a delinquent status, the city shall immediately disconnect the water service without the necessity of advance written notice pursuant to subsection (2) of this section. (Ord. 1570, 1987; Ord. 1434, 1985).

14.05.080 Disconnection and reconnection charges.

(1) There shall be a shutoff charge assessed for each voluntary or involuntary discontinuance of service; provided, that the shutoff charge shall be more if the utility department is required to make a special trip for a single account. The disconnection charges are set forth in MMC 14.07.005.

(2) There shall be a reconnection charge assessed for each reconnection; provided, that the reconnection charge shall be more if the utility department is required to make a special trip for one account. The reconnection charges are set forth in MMC 14.07.005. If a customer insists upon a reconnection after 4:30 p.m. on weekdays, weekends or holidays, the fee for such after-hours reconnection is set forth in MMC 14.07.005.

(3) If service is shut off by reason of an account being delinquent at a single premises more than once within a 12-month period, the shutoff and reconnection charges after the first time during the 12-month period shall be doubled. (Ord. 2106 § 15, 1996; Ord. 1434, 1985).

14.05.090 Fees for utility search services.

The following fees are established for services provided by the city in providing information regarding utility liens and charges upon parcels of real property in response to requests for such services:

(1) Twenty-five dollars per real property parcel for electronic inquiries by persons or companies who have signed a subscription agreement with the city of Marysville for such services. Such fee shall allow multiple electronic inquiries for said parcel within a 70-day time period.

(2) Thirty dollars for each manual search conducted by the city for those persons or companies who do not subscribe to the electronic search service or choose not to use such electronic search means of accessing lien records. Such fee shall be imposed for each manual search conducted regarding each parcel of real property.

(3) Forty dollars for each time the city is requested by a person or company to conduct a special meter reading for utility charges. (Ord. 2598 § 1, 2005).

Chapter 14.07

FEES, CHARGES AND REIMBURSEMENTS

Sections:

14.07.005 General fee structure.
14.07.005A *Repealed*.
14.07.010 Capital improvement charges.
14.07.020 Utility main charge.
14.07.030 Sewer and water extensions inspection charge.
14.07.040 Water service installation fee.
14.07.050 Sewer service installation fees.
14.07.060 Water rates.
14.07.070 Sewer rates.
14.07.080 Reimbursement for oversized water and sewer mains.
14.07.090 Recovery contracts.

14.07.005 General fee structure.

The public works department is authorized to charge and collect the following fees:

Type of Activity	Fee
Land development review and construction inspection fees	See Chapter 15.12 MMC
Storm sewer inspection fee	$60.00/hour and/or consultant fee
Street closure notice	$60.00
Install/repair street sign	Materials and expenses
Street code variance	See Chapter 15.12 MMC
Application for vacation of streets, roads and alleys	$500.00, plus appraisals, cost of preparing legal descriptions
Vegetation abatement	Cost to abate plus a 10 percent surcharge (see MMC 12.36.020 and 12.36.030)
Storm connection fee	$100.00
Construction water	$3.50/1,000 gallons used
Hydrant water	$50.00 setup + $3.50/1,000 gallons used
Sanitary sewer extension inspection charge	$500.00 minimum for 500 feet or less + $1.00 per foot over 500 feet
Sanitary sewer installation fee (mainline to right-of-way)	City-installed: cost per foot at time and materials
Sanitary sewer inspection fee (right-of-way to residence)	$100.00 per connection
Segregations (LID fees)	$100.00, plus actual engineering costs incurred by the city

Type of Activity	Fee
Disconnection charges: Voluntary disconnection of service Involuntary disconnection of service	 $5.00 $10.00; $20.00 if the utility department is required to make a special trip for a single account in an involuntary disconnection situation
Reconnection charges: Voluntary reconnection Involuntary reconnection	 $5.00 $10.00; $20.00 if the utility department is required to make a special trip for a single account in an involuntary reconnection situation
Shut-off/turn-on fee after hours (water)	$75.00
Unauthorized connection: water or sewer	$200.00
Variances: water/sewer	See Chapter 15.12 MMC
Water system extension inspection fee	$0.30/foot
Miscellaneous utility relocation (hydrants, meters, blow-offs)	Time and materials
Water use violation: Commercial Residential	 $200.00 $50.00
Water and/or sanitary sewer plan review	See Chapter 15.12 MMC
Water/sewer connection filing fee	$20.00
Water/sewer system design standard specifications manual	$10.00 – $50.00
Account change water meter read	$15.00
Recovery contract	$250.00 minimum or one percent of project + $50.00 collection fee
Emergency locate (after hours)	$100.00
Late payment fees	Five percent of account for first notice; additional five percent of account for second notice
Bank returned item fee	$30.00
Photocopies	See MMC 1.16.070
Blueprint copies	See MMC 1.16.070
Staff time	See MMC 1.16.070
Tape duplication	See MMC 1.16.070
Mailing costs	See MMC 1.16.070

(Ord. 2554 § 1, 2004; Ord. 2346 § 1, 2000; Ord. 2267 § 1, 1999; Ord. 2106 § 2, 1996).

14.07.005A General fee structure.

Repealed by Ord. 2554. (Ord. 2375 § 6, 2001; Ord. 2342 § 1, 2000; Ord. 2290 § 1, 1999).

14.07.010 Capital improvement charges.

(1) Capital improvement charges shall be assessed on all new connections to the water and sewer system. Capital improvement charges shall also be assessed for a remodel or expansion of an existing building or use. For purposes of this section, an "existing building or use" shall mean all commercial or industrial buildings or uses, churches, schools or similar uses, and all residential buildings or uses where a remodel or expansion increases the number of dwelling units. The capital improvement charge constitutes an equity payment by new and existing customers for a portion of the previously existing capital assets of the system. Capital improvement charges also constitute a contribution to a long-term capital improvement program for the utility system which includes acquisition of new or larger water sources, construction of water storage and transmission facilities, and construction of sewer trunk lines and sewage treatment facilities. Capital improvement charges shall be paid in full before a new connection or expansion or remodel to an existing building or use shall be approved. All payments shall be deposited in the utility construction fund and shall be made at the time of final plat approval, final binding site plan approval, final commercial/multifamily site plan approval, conditional use permit approval or in the case of previously platted individual lots or expansions or remodel to an existing building, when a building permit is or has been issued.

(2) The following capital improvement charges are established:

Residential Units
Connection Charges

Type of Connection		City Water	Outside Water	City Sewer	Outside Sewer
*Residential					
Effective Date	1/1/2005	$3,675	$4,305	$3,120	$3,495
	1/1/2006	$4,750	$5,490	$4,490	$4,890

*Residential living units including multi-unit housing, mobile homes and motels.

Commercial/Industrial
Connection Charges

Water

City

Effective Date	1/1/2005
0 – 2,000 gpm	$1.64/sf
2,001 – 4,000 gpm	$2.40/sf
4,001+ gpm	$3.16/sf

Outside City

Effective Date	1/1/2005
0 – 2,000 gpm	$1.99/sf
2,001 – 4,000 gpm	$2.87/sf
4,001+ gpm	$3.80/sf

25% rate reduction for automatic sprinkler system.

Sewer

City

Effective Date	1/1/2005
Retail Sales/Manufacturing/ Churches/Schools/Day Care	$1.03/sf
Offices/Medical/Dental/Nursing Homes and all other uses not listed	$1.67/sf
Warehouses/Storage	$0.49/sf
Restaurants/Taverns	$2.38/sf

Outside City

Effective Date	1/1/2005
Retail Sales/Manufacturing/ Churches/Schools/Day Care	$1.24/sf
Offices/Medical/Dental/Nursing Homes and all other uses not listed	$2.00/sf
Warehouses/Storage	$0.65/sf
Restaurants/Taverns	$2.86/sf

25% rate reduction for schools without kitchens.

Water Service Installation Fee

Effective Date	1/1/2005
5/8" x 3/4"	$650.00
3/4" x 3/4"	$675.00
1"	$800.00
1-1/2"	$1,200
2"	Time and materials costs/ minimum of $1,500

Drop-in Meter Fee

Effective Date	1/1/2005
5/8" x 3/4"	$100.00
3/4" x 3/4"	$125.00
1"	$160.00
1-1/2"	$350.00
2"	$450.00
3" and over	Charge time and material/ $3,000 minimum

(3) "Floor space" is defined as the net square footage measured from the interior walls, including interior partitions.

(4) The capital improvement charges for sewer connections shall be reduced by $50.00 per unit or $0.045 per square foot when the affected property participated in a utility local improvement for the construction of the sewer main.

(5) Capital improvement charges for sewer connections to commercial and industrial units shall be reduced by 50 percent for any floor space in the premises which is committed to being used as warehouse space for storage purposes only.

(6) If the use of any premises connected to city utilities is converted from a residential occupancy to a commercial or industrial occupancy (as defined in subsection (2) of this section), or from a warehouse use to an active commercial or industrial use, the owner of the premises shall immediately report such conversion to the city and shall pay the extra capital improvement charge which is then required for such an occupancy. Failure to report such a conversion, and pay the extra charge, within 90 days of the new occupancy shall result in the extra charge being doubled as a penalty.

(7) The capital improvement charge for utility connections in recreational vehicle parks shall be calculated as follows:

(a) For each connection to a recreational vehicle pad, the charge shall be 50 percent of the charge provided in subsection (2) of this section relating to residential living units.

(b) For every other connection in a recreational vehicle park, the charge shall be the same as provided in subsection (2) of this section for residential living units.

(8) If a building with a lawful water and/or sewer connection to the city utility system is demolished and replaced with a new building requiring utility connections, the capital improvement charges assessed for the new connections shall be discounted by the amount which would have been paid, under current schedules, for the connections which previously served the demolished building. (Ord. 2557 § 2, 2004; Ord. 2556 §§ 1, 3, 2004; Ord. 2346 § 1, 2000; Ord. 2345 § 1, 2000; Ord. 2305 § 1, 1999; Ord. 2267 § 2, 1999; Ord. 1841 § 1, 1991; Ord. 1509, 1986; Ord. 1496, 1986; Ord. 1492 §§ 1, 2, 1986; Ord. 1480, 1986; Ord. 1434, 1985).

14.07.020 Utility main charge.

(1) A utility main charge shall be assessed to all new connections which utilize water or sewer mains already existing across the frontage of the property being served. The charges constitute payment to the city for the actual costs incurred in originally constructing the main across the frontage of the subject property. Such charges shall not apply when the affected property participated in a utility local improvement district for the construction of a water or sewer main; nor shall such charges be applicable in cases where the main was built and totally paid for by the owner of the subject property or by any private developer who may still be entitled to reimbursement from abutting owners pursuant to a recorded recovery contract (see MMC 14.07.090).

(2) The utility main charge shall be the actual construction cost of the main in question up to eight inches in size for a water main and up to 10 inches in size for a sewer main. The charge shall be prorated on a front foot basis. For convenience in computing the rates charged for older mains in the city, they are restated as follows:

(a) Water mains constructed prior to October 1, 1967: $2.25 per front foot;

(b) Water mains constructed in 1976 or 1977: $5.50 per front foot;

(c) Sewer mains constructed prior to January 1, 1970: $3.00 per front foot;

(d) Sewer mains constructed in 1976 or 1977: $9.00 per front foot.

The city utility department shall keep a record, open to the public, of the prorated construction cost for all city utility mains.

In cases where the city has participated with a private party or utility local improvement district in constructing a main, only that portion of the total cost actually paid by the city shall be used for calculating the utility main charge.

(3) In addition to the per-front-foot cost reference in subsection (2) of this section, the city may assess a charge for any other water or sewer mains constructed with city funds subsequent to 1976. The public works department shall establish a schedule of fees and a map open to the public at the public works department showing the utility mains which are subject to this charge. The per-front-foot charge for such mains constructed after 1976 shall be administratively calculated by the city engineer; provided the total of all fees charged on a front-foot basis shall not exceed the total original cost of the project, including all construction, engineering, right-of-way and easement acquisition, and administrative fees. (Ord. 2067, 1996; Ord. 1635, 1988; Ord. 1434, 1985).

14.07.030 Sewer and water extensions inspection charge.

Any party extending a public sewer line or water system line shall pay the city an inspection fee. This charge is to pay for the cost of city employees inspecting the installation of the sewer or water line to assure that it complies with city standards. The charges are set forth in MMC 14.07.005, and must be paid prior to any connection being approved. (Ord. 2106 § 16, 1996; Ord. 1434, 1985).

14.07.040 Water service installation fee.

(1) A service installation fee shall be assessed at the time any property is connected to the city's water system. In return for the fee the city shall install the service connection, including the water meter. At the owner's option the service connection may be privately installed, in which case the city will only charge for the installation of the meter.

(2) Water service installation fees are established in MMC 14.07.010(2). (Ord. 2345 § 1, 2000; Ord. 2305 § 1, 1999; Ord. 1434, 1985).

14.07.050 Sewer service installation fees.

(1) A service installation fee shall be assessed at the time any property is connected to the city's sewer system by the installation of a side sewer. For purposes of this section "side sewer" means that section of pipe between the public sewer main and the private property line. In return for the fee the city shall install the side sewer and inspect the private sewer from the property line to the building. At the owner's option the side sewer may be privately installed, in which case the city will only charge an inspection fee.

(2) Sewer service installation and inspection fees are set forth in MMC 14.07.005. (Ord. 2106 § 17, 1996; Ord. 1434, 1985).

14.07.060 Water rates.

(1) Definitions.

(a) "Water rates," as used herein, shall refer to the charge assessed by the city for all water consumed or used on property connected to the city water system. The rates shall be based upon the quantity of water passing through the water meter during each billing period.

(b) The normal "billing period" shall be a two-month cycle and shall be that period falling between two consecutive meter read dates. Charges for periods of less than two months shall be prorated both as to minimum charge and as to consumption; provided, however, the city may, at its discretion, elect to use a monthly billing period for selected accounts. If a monthly billing period is used, the consumption allowance and rate shall be one-half that set forth in the bimonthly rate schedule.

(c) Billing Increments. Charges for water shall be computed on the nearest 1,000 gallons of consumption.

(d) "City rates" are those which shall be charged to all properties connected to the water system which are located within the city limits of Marysville.

(e) "CWSP rates" are those which shall be charged to all properties connected to the water system which are located outside the city limits of Marysville but are within the coordinated water system planning boundary.

(f) "OCWSP rates" are those which shall be charged to all properties connected to the water system which are located outside the city's coordinated water system planning boundary.

(g) "Multiple residential units" shall be defined as attached dwelling units which share a common water meter, including duplexes, townhouses, apartments and condominiums, and shall be defined as including mobile home parks.

(h) "Single-family residential units" shall refer exclusively to detached single-family dwelling units.

(2) Minimum Water Rates. Minimum charges for each billing period, and consumption allowances for such minimums, are established as follows:

Connection Classification or Meter Size	Bimonthly Consumption Allowance (Gallons)	City Rate Bimonthly	CWSP Rate Bimonthly	OCWSP Rate Bimonthly
Multiple Residential Units (per dwelling unit)	6,000	$22.30	$33.50	$44.60
5/8" x 3/4"	6,000	$22.30	$33.50	$44.60
3/4" x 3/4"	9,000	$29.40	$44.10	$58.80
1"	15,000	$43.60	$65.40	$87.20
1-1/2"	30,000	$79.10	$118.70	$158.20
2"	48,000	$122.00	$183.00	$244.00
3"	75,000	$186.00	$279.00	$372.00
4"	150,000	$363.00	$544.50	$726.00
6"	360,000	$860.00	$1,290.00	$1,720.00
8"	450,000	$1,073.00	$1,609.50	$2,146.00
10"	600,000	$1,428.00	$2,142.00	$2,856.00
12"	840,000	$1,996.00	$2,994.00	$3,992.00

(3) Overage Rate. Consumption of water in excess of the bimonthly allowance specified above shall be charged at a rate of $2.40 per 1,000 gallons of overage within the city, $3.60 per 1,000 gallons of overage within the CWSP, and a rate of $4.80 per 1,000 gallons of overage outside CWSP.

(4) Summer Surcharge for Residential Users. Water consumption by single-family and multiple residential units beyond 40,000 gallons bimonthly per unit shall be surcharged to 120 percent of the applicable overage. The surcharge shall apply for services for the months of May, June, July, August and September.

(5) Calculation of Water Bill for Multiple Residential Units. In calculating the water bill for multiple residential units, the total number of dwelling units served by a water connection shall be divided into the water consumption for each billing period, expressed in gallons, to determine the average consumption per dwelling unit. The water rates shall be based upon the average consumption per unit during the billing period multiplied by the total number of units.

(6) Calculation of Water Bill for Mobile Home Parks. The total water bill for mobile home parks shall be calculated by applying the rate schedule to the total number of pads or mobile home sites on the premises which are in a condition ready for occupancy, regardless of whether the same are occupied during the billing period or not; provided, that for the first 24 months after a mobile home park, or a new addition thereto, is opened and connected to city utilities, its water bill shall be calculated by applying the rates only to such pads or mobile home sites as are actually occupied by mobile homes during each billing period; provided, however, for mobile home parks whose utility meter with the city was first activated less than three years preceding June 9, 1997, the effective date of Ordinance 2130, and for which billing on all pads or mobile home sites has occurred for less than two years preceding June 9, 1997, such mobile home parks shall be granted an additional 12 months from June 9, 1997, to pay only for such pads or mobile home sites which are actually occupied during each billing period; provided, further, that all fees, charges and rates paid by such mobile home parks to the city under prior provisions of this subsection and MMC 14.07.070(4) as such subsections originally read or as subsequently amended, shall be nonrefundable notwithstanding the provisions of this subsection.

(7) Private Fire Protection Rates. Private fire protection rates for properties inside or outside of the corporate limits of the city shall be as follows:

(a) Private hydrants, each: $35.15 per year;

(b) Wet standpipe systems: $35.15 per year;

(c) Dry standpipe systems: None;

(d) Automatic sprinkler systems: Each owner of an automatic sprinkler system shall be charged a monthly rate based upon the size of the water service line that serves the system. The following are the bimonthly rates:

Size of Line	Bimonthly Charge
2-inch	$37.00
3-inch	$46.00
4-inch	$57.00
6-inch	$72.00
8-inch	$93.00
10-inch	$118.00
12-inch	$135.00

(8) Reduced Utility Charges in Special Cases. Upon application by a utility customer, the chief administrative officer or designee shall have the discretion to make reasonable and equitable reduction in utility accounts, on a case-by-case basis, in the following circumstances:

(a) If a private water line, valve, fixture, or other appurtenance is verified to be leaking as a result of accidental damage or natural deterioration of the same, and not as a result of abuse or willful neglect, the water bill for the subject property during the period of the leak may be reasonably and equitably reduced; provided, that a customer shall be required to pay the base rate plus at least 50 percent of the applicable overage rate for all water which was lost by reason of the leak. The sewer bill for the subject property during the period of the leak may also be reasonably and equitably reduced to an amount not less than the bill charged for the corresponding period the previous year.

(9) Calculation of Water Bill for School Facilities. The city rate for water as set forth in subsection (2) of this section shall apply to all school facilities, whether such facilities are within the city limits or not.

(10) Rate Relief. Low-income senior citizens and low-income disabled persons may be eligible for water and/or sewer rate relief pursuant to Chapter 3.63 MMC. (Ord. 2548 §§ 1, 3, 2004; Ord. 2457 § 1, 2002; Ord. 2394 § 1, 2001; Ord. 2181 §§ 1, 2, 1998; Ord. 2130 § 1, 1997; Ord. 2117 §§ 1, 2, 1997; Ord. 2109 § 1, 1996; Ord. 1840 § 1, 1991; Ord. 1809 § 1, 1990; Ord. 1789, 1990; Ord. 1434, 1985).

14.07.070 Sewer rates.

(1) Definitions.

(a) The normal "billing period" shall be a two-month cycle and shall be that period falling between two consecutive water meter read dates. Charges for periods of less than two months shall be prorated; provided, however, the city may, at its discretion, elect to use a monthly billing period for selected accounts. If a monthly billing period is used, the rate shall be one-half that set forth in the bimonthly rate schedule.

(b) "City rates" are those which shall be charged to all properties connected to the sewer system which are located within the city limits of Marysville.

(c) "UGA rates" are those which shall be charged to all properties connected to the sewer system which are located outside of the city limits of Marysville but are within the urban growth area of the city of Marysville or that portion of the city of Arlington urban growth area which Marysville has agreed by interlocal agreement to provide service.

(d) "OUGA rates" are those which shall be charged to all properties connected to the sewer system which are located outside the Marysville city limits and outside areas where "UGA rates" apply.

(e) "Single-family residences" shall refer exclusively to detached single-family dwelling units.

(f) "Multiple residential units" shall be defined as attached dwelling units which share a common water meter, including duplexes, townhouses, apartments, and condominiums, and shall be defined as including mobile home parks.

(g) "Commercial/industrial" refers to all nonresidential land uses which are not specifically itemized or defined as being included within other classifications.

(h) "Satellite system rate" refers to that rate charged to the city by Lake Stevens Sewer District for the "overlap" area as described in the interlocal agreement between the parties dated April 22, 1999, plus an administrative overhead cost of 15 percent.

(2) Calculation of Commercial/Industrial Sewer Rates. Commercial/industrial sewer rates shall be based upon the quantity of water consumed or used on the premises during the billing period, as determined by the water meter reading and the strength of the discharge as measured by total suspended solids (TSS) and biochemical oxygen demand (BOD); provided, that a property owner may, at his own expense, arrange the plumbing on commercial premises so as to separate water which will be discharged into the sewer system from water which will not be so discharged, and a separate meter shall be installed to measure the amount of actual sewage discharged. In such a case the sewer rate shall be based only on the actual sewer use. The installation of such plumbing and meters must be inspected and approved by the city utility department.

Where a commercial property is connected to sewer service but not to water service, the city council shall determine the sewer rate to be charged on a case-by-case basis, using an estimated figure for water consumption.

(3) Sewer Rates. Sewer rates are established as follows:

Classification	City Bimonthly Rate	UGA Bimonthly Rate	OUGA Bimonthly Rate
Single-family residences	$61.30 per unit	$92.00 per unit	$123.00 per unit
Multiple residential units	$58.30 per unit	$87.50 per unit	$110.00 per unit
Hotels/motels	$42.90 per unit	$64.40 per unit	$85.90 per unit
Commercial/Industrial (BOD/TSS Range mg/l)			
Class 1 (31 to 100 mg/l) (pretreatment required)	$0.90 per 1,000 gal., $61.30 min.	$1.40 per 1,000 gal., $92.00 min.	$1.70 per 1,000 gal., $123.00 min.
Class 2 (101 to 200 mg/l) (pretreatment required)	$1.20 per 1,000 gal., $61.30 min.	$1.80 per 1,000 gal., $92.00 min.	$2.40 per 1,000 gal., $123.00 min.
Class 3 (201 to 300 mg/l)	$1.50 per 1,000 gal., $61.30 min.	$2.30 per 1,000 gal., $92.00 min.	$3.10 per 1,000 gal., $123.00 min.
Class 4 (301 to 400 mg/l)	$2.10 per 1,000 gal., $61.30 min.	$3.20 per 1,000 gal., $92.00 min.	$4.30 per 1,000 gal., $123.00 min.
Class 5 (401 to 500 mg/l)	$2.60 per 1,000 gal., $61.30 min.	$3.90 per 1,000 gal., $92.00 min.	$5.20 per 1,000 gal., $123.00 min.
Class 6 (501 to 750 mg/1)	$4.00 per 1,000 gal., $61.30 min.	$6.00 per 1,000 gal., $92.00 min.	$8.00 per 1,000 gal., $123.00 min.
Overnight camping facilities	$42.90 per unit having individual connections; other connections at $58.30 each	$64.40 per unit having individual connections; other connections at $87.50 each	$85.90 per unit having individual connections; other connections at $110.05 each
Schools	$3.50 per 1,000 gal., $61.30 min.		

(4) Calculation of Sewer Rates for Mobile Home Parks. The total sewer bill for mobile home parks shall be calculated by applying the rate schedule above to the total number of pads or mobile home sites on the premises which are in a condition ready for occupancy, regardless of whether the same are occupied during the billing period; provided, that for the first 24 months after a mobile home park, or a new addition thereto, is opened and connected to city utilities, the sewer bill shall be calculated by applying the rates only to such pads or mobile home sites as are actually occupied by mobile homes during each billing period; provided, however, for mobile home parks whose utility meter with the city was first activated less than three years preceding June 9, 1997, the effective date of Ordinance 2130, and for which billing on all pads or mobile home sites has occurred for less than two years preceding June 9, 1997, such mobile home parks shall be granted an additional 12 months from June 9, 1997, to pay only for such pads or mobile home sites which are actually occupied during each billing period; provided further, that all fees, charges and rates paid by such mobile home parks to the city under prior provisions of this section and MMC 14.07.060, as such sections originally read or as subsequently amended, shall be nonrefundable notwithstanding the provisions of this subsection.

(5) Restaurants, for the purpose of sewer rates, shall be classified as Class 3 strength as described in subsection (3) of this section. Restaurants without approved grease traps, including those restaurants where a variance has been granted eliminating the necessity of a grease trap, shall be surcharged $2.00 per 1,000 gallons.

(6) Satellite System Rate. Notwithstanding any other rate established by this section, for that area defined as the satellite system area, the city shall charge the same rate as charged by Lake Stevens Sewer District plus an administrative fee of 15 percent. This rate shall be in effect for such properties until such time as the city's sewer collection system is constructed and sewer flows are diverted from the Lake Stevens Sewer District system to the city's sewer collection system.

(7) Calculation for Sewer Rates for Schools. School sewer rates shall be based upon the quantity of water consumed or used on the premises during the billing period, as determined by the water meter reading; provided, if the water service is supplied to a school by other than the city of Marysville water system, the school district shall notify the city billing department of the total consumption as billed by other such water purveyor. The city rate for sewer as set forth in subsection (3) of this section shall apply to all school facilities, whether such facilities are within the city limits or not and whether public or privately operated.

(8) Rate Relief. Low-income senior citizens and low-income disabled persons may be eligible for water and/or sewer rate relief pursuant to Chapter 3.63 MMC. (Ord. 2548 §§ 2, 3, 2004; Ord. 2531 § 2, 2004; Ord. 2457 § 2, 2002; Ord. 2394 § 2, 2001; Ord. 2347 § 1, 2000; Ord. 2284 § 1, 1999; Ord. 2130 § 2, 1997; Ord. 2117 § 3, 1997; Ord. 2109 § 2, 1996; Ord. 1840 § 2, 1991; Ord. 1809 § 2, 1990; Ord. 1798, 1990; Ord. 1434, 1985).

14.07.080 Reimbursement for oversized water and sewer mains.

In all cases, the city engineer shall determine the size and depth of water and sewer mains connected to the city utility system. The determination shall be consistent with the city's comprehensive plan and the long-range objectives for the water and sewer utility. If a property owner/developer of residential property is required to install a water main with a diameter in excess of eight inches or a sewer main with a diameter in excess of 10 inches, and if the purpose of such oversizing is to provide for future

extension of the main to adjacent properties within the utility service area, and not merely to meet the needs of the property responsible for constructing the main, the city may reimburse the property owner for the difference in material costs incurred solely by reason of the oversizing requirement. No such reimbursement shall be made except upon the following: complete installation of the water or sewer main and approval of the same by the city engineer; a submittal of a bill of sale and warranty for the water or sewer main to the city; certification of the oversizing costs, with such verification from the material supplier and contractor as the city engineer may require; approval of the oversizing costs by the city engineer; and approval of the reimbursement by the city council. (Ord. 1434, 1985).

14.07.090 Recovery contracts.

At the option of the city council, any party having constructed a public water or sewer line at its own cost may be allowed to enter into a recovery contract with the city providing for partial reimbursement to such party, or its assigns, for the costs of such construction, including the costs of engineering and design work, and all costs of labor and materials reasonably incurred. Such contracts shall be governed by the following provisions:

(1) Within 60 days after a utility line is accepted by the city and a bill of sale/warranty is filed with respect to the same, the proponent of the recovery contract shall submit a request for the same, using a form supplied by the city, together with supporting documentation showing all costs incurred in the project.

(2) An assessment area shall be formulated based upon a determination by the city as to which parcels of real estate adjacent to the utility line will be directly benefited by the same.

(3) The reimbursement share of all property owners in the assessment area shall be the pro rata share of the total cost of the project, less any contributions paid by the city. Each reimbursement share shall be determined by using a method of cost apportionment which is based upon the benefit received by each property from the project. This will generally be prorated on a front footage basis. There shall be no reimbursement to the proponent for the share of the benefits which are allocated to its property.

(4) The contract, upon approval by the city council, shall be recorded in the records of the Snohomish County auditor within 30 days of such approval. The recorded contract shall constitute a lien against all real property within the assessment area which did not contribute to the original cost of the utility project.

(5) If, within a period of 15 years from the date the contract was recorded, any property within the assessment area applies for connection to the utility line, the lien for payment of the property's proportionate share shall become immediately due and payable to the city as a condition of receiving connection approval.

(6) All assessments collected by the city pursuant to a recovery contract, less the city's administrative charge, shall be paid to the original proponent, its personal representative, successors or assigns, within 30 days after receipt by the city. The city's administrative charge for each collection is set forth in MMC 14.07.005.

(7) At the termination of the 15-year recovery period, the lien shall continue, but all collections thereafter shall be for the benefit of the city and shall be deposited in the city's utility fund.

(8) Nothing in this section, nor any provision in a recovery contract, shall be construed as establishing the city as a public utility in areas not already connected to the city's utility system; nor shall this section, or any recovery contract, be construed as establishing express or implied rights for any property owner to connect to the city's utility system without first qualifying for such connection by compliance with all applicable city codes and ordinances. (Ord. 2106 § 18, 1996; Ord. 1599, 1988; Ord. 1434, 1985).

Chapter 14.08

WATER SHORTAGE EMERGENCY[1]

Sections:

14.08.010 Declaration of water shortage condition – Authority.
14.08.020 Use restrictions.
14.08.030 Declaration of water shortage condition – Notice.
14.08.040 Penalty for violation.

14.08.010 Declaration of water shortage condition – Authority.

The mayor of the city of Marysville shall have the power to declare by written proclamation that a water shortage condition exists and prevails within the Marysville public water system service area, said area consisting of all properties connected to the Marysville water system, whether inside or outside of the city limits or of the boundaries of other independent jurisdictions. The declaration shall be based upon a finding that a water shortage exists by reason of the fact that ordinary demands and requirements of the water consumers cannot be met and satisfied by the water supplies available to the Marysville water system without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation and fire protection. (Ord. 950 § 1, 1977).

14.08.020 Use restrictions.

At any time during the year, upon the declaration of a water shortage condition by the mayor, the mayor may implement any or all of the following water use restriction programs, which programs shall be effective for all properties connected to the Marysville water system:

(1) Prohibition of Nonessential Use of Water. No water furnished by the Marysville water system shall be used for any of the following nonessential purposes:

(a) Washing sidewalks, driveways, parking areas, patios or other exterior-paved areas, except for public safety purposes;

(b) Noncommercial washing of privately owned motor vehicles, trailers and boats, except from a bucket and except from a hose equipped with a shutoff nozzle used for quick rinses;

(c) Any use of water from a fire hydrant except for fighting fires;

(d) Watering of any lawn, garden, landscaped area, tree, shrub or other plant, except from a hand-held hose or container or drip irrigation system;

(e) Use of water for dust control or compaction;

(f) Filling or refilling any swimming pool;

(g) Use by a laundromat in excess of the amount of water used by it during the corresponding billing period in the preceding year. If the laundromat was not operating in the preceding year, an assumed amount shall be computed by the water superintendent;

(h) Any nonresidential use in excess of 70 percent of the amount used by the consumer during the corresponding billing period in the preceding year. If connection to the system was not in existence or use in the preceding year, an assumed amount shall be computed by the water superintendent. Such percentage may be increased if the water superintendent determines that such increase is necessary to protect the public health, safety and welfare, or to spread equitably among the water users of the Marysville water system the burdens imposed by the water shortage. All such variances will be immediately reported in writing to the mayor for his review and concurrence;

(i) Such other uses as are deemed by the mayor to be nonessential under the circumstances.

(2) Suspension of New Connections. No new or enlarged connection shall be made to the Marysville water system except the following:

(a) Connections which have been granted to and authorized prior to the imposition of the suspension;

(b) Connections of fire hydrants;

(c) Connections of dwellings previously supplied with water from a well which runs dry.

(3) Emergency Rationing. An emergency program rationing residential and nonresidential use of water to the extent necessary to protect the public health, safety and welfare shall be prepared by the mayor, or his designee, and presented to the city council for approval or modification. Such program, as approved, shall be implemented and enforced as provided in this chapter.

(4) Drought Response Plan. The mayor may implement the drought response plan as adopted by resolution of the city council. (Ord. 2385, 2001; Ord. 1807 § 3, 1990; Ord. 1790, 1990; Ord. 1529, 1987; Ord. 950 § 2, 1977).

1. For statutory provisions granting city or town full power to regulate the use of water from city waterworks, see RCW 35.92.010

14.08.030 Declaration of water shortage condition – Notice.

Notice of the declaration of a water shortage condition shall be published in an official newspa-

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per of the city of Marysville, together with a summary of water use restrictions implemented by the mayor. The restrictions shall become effective on the date of first publication. In the event that the mayor implements an emergency rationing program, additional notice of such program shall be mailed to the billing address of each property connected to the Marysville water system. An emergency rationing program shall become effective three days following the mailing of such notices. All water use restrictions and programs shall continue in effect until terminated by declaration of the mayor. (Ord. 950 § 3, 1977).

14.08.040 Penalty for violation.

If the city becomes aware of any violation of a water use restriction duly implemented by the mayor, written notice of such violation shall be placed on the property where the violation occurred and shall be mailed to the regular billing address for such property. Said notice shall describe the violation and order that it be corrected, cured or abated immediately, or within such specified time as the city determines is reasonable under the circumstances. If said order is not complied with, the city may forthwith disconnect water service to said property. Applicable fees for violation of this provision, and for disconnection and reconnection are set forth in MMC 14.07.005. (Ord. 2106 § 19, 1996; Ord. 950 § 4, 1977).

Chapter 14.09

WATER AND SEWER CONSERVATION MEASURES

Sections:

14.09.010 Declaration of purpose.
14.09.020 Assistance offered by city to water customers.
14.09.030 Economic incentives for existing customers.
14.09.040 Economic incentives for new customers.
14.09.050 Water use restrictions.
14.09.060 Enforcement; penalties.

14.09.010 Declaration of purpose.

The conservation and efficient use of water is found and declared to be a public purpose of highest priority. It will result in preservation of natural resources, enhancement of public health, safety and welfare, and a reduction in public costs for the construction of enlarged water and sewer facilities. (Ord. 1807 § 1, 1990).

14.09.020 Assistance offered by city to water customers.

The city may offer the following types of assistance to all utility customers of the city, whether located inside or outside of the city limits:

(1) Providing written notice to customers at the time of each billing statement showing the amount of water used at said customer's property during the corresponding billing period in the preceding year. If water consumption has increased by 125 percent or more, said notice may suggest that the customer contact the city for a water use audit and that conservation measures be immediately implemented;

(2) Providing water use audits for any and all customers upon request. In the case of high-volume users the city may take the initiative to contact the customer and request an opportunity to conduct a water use audit;

(3) Providing inspections of customer premises, either directly or through one or more inspectors under contract, to determine and inform the customer of the estimated cost of purchasing and installing conservation fixtures, systems and equipment;

(4) Providing customers with a list of businesses that sell and install conservation fixtures, systems and equipment within or in close proximity to the service area of the city. Each of said businesses shall have requested to be included on the

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list and shall have the ability to provide the products in a workmanlike manner and in accordance with the prevailing standards of the industry;

(5) Arranging for the purchase and installation of approved conservation fixtures, systems and equipment at the customer's cost. Provided, that the city may provide the following retrofit plumbing devices, upon request, at no cost: low volume shower heads, toilet tank bags, faucet aerators, and leak detection dye; and

(6) Providing economic incentives for voluntary installation of conservation fixtures, systems and equipment, as provided in MMC 14.09.030 and 14.09.040 below. (Ord. 1807 § 1, 1990).

14.09.030 Economic incentives for existing customers.

Customers who, at their own cost, purchase and install approved water conservation fixtures, systems or equipment on a voluntary basis when the same are not otherwise required by any code, rule or regulation, shall be entitled to payment from the city in an amount equivalent to one-half the verified cost incurred by the customer, up to a maximum of $50.00 per customer account. Applications for such economic incentives shall be filed with the city clerk within 30 days after installation of the conservation fixtures, systems or equipment. The installation shall be subject to inspection and approval by the city. Economic incentives shall be on a one-time-only basis for each customer account, and shall only be paid if the account is in a then-current status. Economic incentives shall not apply to fixtures, systems or equipment used for commercial or industrial purposes. (Ord. 1807 § 1, 1990).

14.09.040 Economic incentives for new customers.

Property owners or contractors constructing new buildings which will be connected to the city's utility system shall be entitled to the same economic incentives referred to in MMC 14.09.030 above if, at their own cost, they purchase and install approved water conservation fixtures, systems or equipment on a voluntary basis when the same are not otherwise required by any code, rule or regulation. (Ord. 1807 § 1, 1990).

14.09.050 Water use restrictions.

The following nonessential uses of water are prohibited on all properties connected to the city's water system, whether inside or outside of the city limits:

(1) Washing sidewalks, walkways, driveways, parking lots, patios and other exterior paved areas by direct hosing, except as may be necessary to properly dispose of flammable or otherwise dangerous liquids or substances or to prevent or eliminate materials dangerous to the public health and safety.

(2) Escape of water through breaks or leaks within the customer's plumbing or private distribution system for any period of time beyond which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of 48 hours after the customer discovers a leak or break, or receives notice from the city of such leak or break, whichever occurs first, is a reasonable time within which to correct the same.

(3) Noncommercial washing of privately owned motor vehicles, trailers and boats, except from a bucket or a hose equipped with a shut-off nozzle used for quick rinses.

(4) Lawn sprinkling and irrigation which allows water to run off or overspray the lawn area. Every customer is deemed to have knowledge of and control over his lawn sprinkling and irrigation at all times.

(5) Sprinkling and irrigation of lawns, ground cover or shrubbery between the hours of 10:00 a.m. and 4:00 p.m., or on any day not authorized by the rotation schedule announced on an annual basis by the city. (Ord. 1807 § 1, 1990).

14.09.060 Enforcement; penalties.

If the city determines that any customer is violating any provision of this chapter it shall notify said customer, in writing, that the violation must be corrected or abated within a specified period of time, the length of which shall be reasonably related to the circumstances of the particular violation. Said notice shall be mailed to the last known billing address for the customer. If the customer fails to comply, or if a repeat violation occurs within the following six months, the city may implement one or more of the following enforcement measures:

(1) The city may install a flow restrictor on the customer's service line. The cost of said device, together with a reasonable installation charge, shall be added to the customer's water bill. At the conclusion of the enforcement action the cost of removing the device shall be added to the customer's water bill.

(2) The city may disconnect water service to the property. A fee of $50.00 shall be paid for reconnection of any service which has been disconnected pursuant to this section.

(3) Violations of, or failure to comply with, any provision of this chapter shall constitute a civil infraction and any person found to have violated

the same is punishable by a monetary penalty of not more than $50.00 for each such violation. Each day that a violation continues shall constitute a new and separate infraction. (Ord. 1807 § 1, 1990).

Chapter 14.10

WATER SUPPLY CROSS-CONNECTIONS

Sections:

14.10.010 Chapter compliance required.
14.10.020 Customer defined.
14.10.030 Compliance by district or organization required.
14.10.040 Regulations interpretation.
14.10.050 Definitions.
14.10.060 Cross-connection prohibited.
14.10.070 Use of backflow prevention devices.
14.10.080 Backflow prevention device – Types required.
14.10.090 Backflow prevention device – Installation – Location.
14.10.100 Backflow prevention device – Installation – Supervision.
14.10.110 Backflow prevention device – Model.
14.10.120 Backflow prevention device – Inspection and testing.
14.10.130 Violation – Service termination.

14.10.010 Chapter compliance required.

Any customer, regardless whether residing within or without the city limits of the city of Marysville, who is now receiving water from the Marysville water system or who will in the future receive water from the city of Marysville, shall comply with the rules and regulations contained in this chapter. (Ord. 788 § 1, 1972).

14.10.020 Customer defined.

For the purpose of this chapter, "customer" means any person, family, business, corporation, partnership or firm connected to the city of Marysville water supply. (Ord. 788 § 2, 1972).

14.10.030 Compliance by district or organization required.

In addition, any water district, municipal organization or other organization which is connected to the Marysville water supply for water and/or which is furnished to people or members within the district or organization as well as the district or organization itself to comply with the rules and regulations contained in this chapter. (Ord. 788 § 3, 1972).

14.10.040 Regulations interpretation.

These regulations are to be reasonably interpreted. It is their intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection should be commensurate with the degree of hazard. (Ord. 788 § 4, 1972).

14.10.050 Definitions.

As used in this chapter, unless the context states otherwise, the following definitions shall apply:

(1) "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle, and is at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel. In no case shall the gap be less than one inch;

(2) "Auxiliary supply" means any water source or system, other than the public water supply, that may be available in the building or premises;

(3) "Backflow" means the flow other, than the intended direction of flow, of any foreign liquids, gases or substances into the distribution system of a public water supply:

(a) "Back pressure" means backflow caused by a pump, elevated tank, boiler or other means that could create pressure within the system greater than the supply pressure,

(b) "Back siphonage" means a form of backflow due to a negative or subatmospheric pressure within a water system;

(4) "Backflow prevention device" means a device to counteract back pressures or prevent back siphonage;

(5) "Cross-connection" means any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow, bypass arrangements, jumper connections, removable sections, swivel or change-over devices, and other temporary or permanent devices through which, or because of which, backflow could occur are considered to be cross-connections;

(6) "Double check valve assembly" means an assembly composed of two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve;

(7) "Reduces pressure principle backflow prevention device" means a device incorporating two or more check valves and an automatically operating differential relief valve located between the two checks, two shutoff valves and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two check valves, less than the pressure on the public water supply side of the device. At cessation of normal flow, the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less the relief valve shall open to the atmosphere thereby providing an air gap in the device. (Ord. 788 § 5, 1972).

14.10.060 Cross-connection prohibited.

(1) Except as provided in MMC 14.10.070, all cross-connections, as defined in MMC 14.10.050, whether or not such cross-connections are controlled by automatic devices such as check valves or by hand-operated mechanisms such as a gate valve or stop cocks, are prohibited.

(2) Failure on the part of persons, firms or corporations to discontinue the use of any and all cross-connections and to physically separate such cross-connections will be sufficient cause for the discontinuance of the public water service to the premises on which the cross-connection exists.

(3) The purveyor shall, in cooperation with the health officer or the local plumbing inspection authority, make periodic inspections of premises served by the water supply to check for the presence of cross-connections. Any cross-connections found in such inspection shall be ordered removed by the responsible agency. If an immediate hazard to health is caused by the cross-connection, water service to the premises shall be discontinued until it is verified that the cross-connection has been removed. (Ord. 788 § 6, 1972).

14.10.070 Use of backflow prevention devices.

Backflow prevention devices shall be installed at the service connection or within any premises where in the judgment of the purveyor or the secretary the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross-connection does not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

(1) Premises having an auxiliary water supply, unless the quality of the auxiliary supply is in compliance with WAC 248-54-430 of the rules and

regulations of the State Board of Health, three copies of which are on file with the city clerk;

(2) Premises having internal cross-connections that are not correctable, or intricate plumbing arrangements which make it impracticable to ascertain whether or not cross-connections exist;

(3) Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure that cross-connections do not exist;

(4) Premises having a repeated history of cross-connections being established or reestablished;

(5) Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross-connection could reasonably be expected to occur. This includes the handling of process waters and cooling waters;

(6) Premises where materials of a toxic or hazardous nature are handled such that if back siphonage should occur, a serious health hazard may result;

(7) The following types of facilities will fall into one of the above categories where backflow prevention device is required to protect the public water supply. A backflow prevention device shall be installed at these facilities as set forth herein unless the city and the secretary determines no hazard exists:

(a) Hospitals, mortuaries, clinics,

(b) Laboratories,

(c) Piers and docks,

(d) Sewage treatment plants,

(e) Food or beverage processing plants,

(f) Chemical plants using a water process,

(g) Metal plating industries,

(h) Petroleum processing or storage plants,

(i) Radioactive material processing plants or nuclear reactors,

(j) Others specified by the secretary. (Ord. 788 § 7(A), 1972).

14.10.080 Backflow prevention device – Types required.

The type of protective device required herein shall depend on the degree of hazard which exists as follows:

(1) An air gap separation or a reduced pressure principle backflow prevention device shall be installed where the water supply may be contaminated with sewage, industrial waste of a toxic nature or other contaminant which would cause a health or system hazard;

(2) In the case of a substance which may be objectionable but not hazardous to health, a double check valve assembly, air gap separation or a reduced pressure principle backflow prevention device shall be installed. (Ord. 788 § 7(B), 1972).

14.10.090 Backflow prevention device – Installation – Location.

Backflow prevention devices required in MMC 14.10.070 through 14.10.120 shall be installed at the meter, at the property line of the premises when meters are not used, or at a location designated by the secretary or city. The device shall be located so as to be readily accessible for maintenance and testing, and where no part of the device will be submerged. (Ord. 788 § 7(C), 1972).

14.10.100 Backflow prevention device – Installation – Supervision.

Backflow prevention devices required in MMC 14.10.070 through 14.10.120 shall be installed under the supervision of, and with the approval of, the city. (Ord. 788 § 7(D), 1972).

14.10.110 Backflow prevention device – Model.

Any protective device required in MMC 14.10.070 through 14.10.120 shall be a model approved by the secretary. A double check valve assembly or a reduced pressure principle backflow prevention device will be approved if it has successfully passed performance tests of the University of Southern California Engineering Center or other testing laboratories satisfactory to the secretary. (Ord. 788 § 7(E), 1972).

14.10.120 Backflow prevention device – Inspection and testing.

Backflow prevention devices installed under MMC 14.10.070 through 14.10.120 shall be inspected and tested annually, or more often where successive inspections indicate repeated failure. The devices shall be repaired, overhauled or replaced whenever they are found to be defective. Inspections, tests and repairs and records thereof shall be done under the city's supervision. (Ord. 788 § 7(F), 1972).

14.10.130 Violation – Service termination.

Failure of any customer or any district organization to cooperate in the installation, maintenance, testing or backflow prevention device or the requirements of an air gap separation shall be grounds for the termination of the water services at a point where such flow, which is to be terminated by the city of Marysville, would best prevent possible contamination of the public water supply. (Ord. 788 § 8, 1972).

Chapter 14.15

ON-SITE STORM WATER DRAINAGE CODE

Sections:

14.15.010 Purpose.
14.15.015 Storm water management manual adopted.
14.15.020 Definitions.
14.15.030 Applicability.
14.15.040 Minimum requirement thresholds.
14.15.050 Minimum requirements.
14.15.060 Mandatory requirements for all drainage improvements.
14.15.065 Contents of a storm water site plan.
14.15.070 Development in critical flood, drainage and/or erosion areas.
14.15.080 Establishment of regional facilities.
14.15.090 Fees.
14.15.100 Construction standards and specifications.
14.15.110 Review and approval of plans.
14.15.120 Inspections – Construction.
14.15.130 Bonds and liability insurance required.
14.15.140 City assumption of maintenance.
14.15.150 Retroactivity relating to city maintenance of drainage facilities.
14.15.160 Maintenance of drainage facilities by owner.
14.15.165 Maintenance of drainage swales and ditches.
14.15.170 Applicability to governmental entities.
14.15.175 Adjustments.
14.15.180 Exceptions.
14.15.185 Additional procedures and review.
14.15.190 Enforcement.
14.15.200 No special duty created.
14.15.210 Severability.
14.15.220 Appeals.

14.15.010 Purpose.

The city council finds that this chapter is necessary to promote sound development policies and construction procedures which respect the city's watercourses; to minimize water quality degradation and control of sedimentation of creeks, streams, ponds, lakes, and other water bodies; to protect the life, health, and property of the general public; to preserve and enhance the suitability of waters for contact recreation and fish habitat; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable ground water quantities, locations, and flow patterns; to ensure the safety of city roads and rights-of-way; and to decrease drainage-related damages to public and private property. (Ord. 2476 § 2, 2003).

14.15.015 Storm water management manual adopted.

The 2001 State Department of Ecology's Storm Water Management Manual for Western Washington is hereby adopted as a technical reference manual and is hereinafter referred to as the manual. (Ord. 2476 § 2, 2003).

14.15.020 Definitions.

For the purpose of this chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section. Words used in the singular include the plural, and the plural the singular. The words "shall," "will" and "must" are mandatory; the words "should" and "may" are permissive. When any definition in this chapter conflicts with definitions in the manual or any other ordinance of the city, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

(1) "Adjustment" means a project proposal that has received approval as providing substantially equivalent environmental protection while maintaining the objectives of safety, function, and facility maintenance based upon sound engineering.

(2) "Applicant" means any person who has applied for a development permit or approval.

(3) "Basin plan" means a plan that assesses, evaluates, and proposes solutions to existing and potential future impacts to the beneficial uses of, and the physical, chemical, and biological properties of waters of the state within a basin.[1] A plan should include but not be limited to recommendations for:

(a) Storm water requirements for new development and redevelopment;

(b) Capital improvement projects;

(c) Land use management through identification and protection of critical areas, comprehensive land use and transportation plans, zoning regulations, site development standards, and conservation areas;

(d) Source control activities including public education and involvement, and business programs;

(e) Other targeted storm water programs and activities, such as maintenance, inspections, and enforcement;

(f) Monitoring; and

1. Basins typically range from one to 50 square miles.

(g) An implementation schedule and funding strategy.

(4) "Best management practices (BMPs)" refers to physical, structural, and/or managerial practices, that when used singly or in combination, prevent or reduce pollution of water and have been approved by the engineer. BMPs include, but are not limited to, infiltration, retention and/or detention, biofiltration facilities, open ditches with check dams, filter fabric strips, oil/water separators, wet ponds, constructed wetlands, erosion and sedimentation control, and other treatment/abatement facilities.

(5) "Biofiltration facility" means the simultaneous processes of filtration, absorption, and biological uptake of pollutants in storm water to take place when runoff flows over and through vegetated treatment facilities.

(6) "City planner" also means community development director.

(7) "Clearing" means the destruction and removal of vegetation by manual, mechanical or chemical methods.

(8) "Comprehensive drainage plan" means a detailed analysis adopted by the city which compares the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location, and extent of quantity and quality control measures which would satisfy legal constraints, water quality standards and community standards and identifies the institutional and funding requirements for plan implementation.

(9) "Computations" means calculations, including coefficients and other pertinent data made to determine the drainage plan with flow of water given in cubic feet per second (cfs).

(10) "Construction storm water pollution prevention plan" or "construction SWPPP" means a plan that includes a narrative, drawings, and details for describing construction practices, stabilization techniques, and structural BMPs that are to be implemented to prevent erosion and sedimentation, and control other pollutants at a construction site.

(11) "Conveyance system" means the drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of surface and storm water from the highest points on the land down to a receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The human-made elements of the conveyance system include gutters, ditches, pipes, channels, and most retention/detention facilities.

(12) "Current conditions" means the state, status, or conditions (land use, impervious surfaces, topography, soils, and surface water flows) present of the subject property at the time the analysis is conducted.

(13) "Cut and fill" means the process of earth moving by excavating part of an area and using the excavated material for adjacent embankments or fill areas.

(14) "Department" means the public works or community development department of the city of Marysville, as appropriate for capital or private development projects.

(15) "Design storm" means a rainfall (or other precipitation) event or pattern of events for use in analyzing and designing drainage facilities, specifying both the return period in years and the duration in hours.

(16) "Detention" means the release of storm water runoff from the site at a slower rate than it is collected by the storm water drainage system, the difference being held in temporary storage.

(17) "Detention facility" means an above or below ground facility, such as a pond or tank, that temporarily stores storm water runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored storm water.

(18) "Developed conditions" means the state, status, or condition of the subject property at the time the proposed project has been completed, which may include existing buildings, impervious areas, and topography as is.

(19) "Developer" means the individual(s) or corporation(s) or governmental agency(ies) applying for the permits or approvals described in MMC 14.15.030.

(20) "Development" means any artificial change to property, including but not limited to building or other structures, mining, dredging, filling, all land-disturbing activities, clearing, grading, landscaping, paving, excavation, or drilling operations, any activity that requires a permit or approval, including but not limited to a building permit, grading permit, shoreline substantial development permit, conditional use permit, unclassified use permit, zoning variance or reclassification, planned unit development, subdivision, short subdivision, master plan development, building site plan, or right-of-way use permit.

(21) "Developmental coverage" means all developed areas within the subject property including but not limited to rooftops, driveways, carports, accessory buildings, parking areas, and any other impervious surfaces. During construction, "devel-

opment coverage" includes the above in addition to the full extent of any alteration of previously occurring soils, slope, or vegetation due to grading, temporary storage, access areas, or other short-term causes.

(22) "Director of public works" or "director" means the director of the public works department or his/her designee.

(23) "Drainage area" means the watershed (acreage) contributing surface water runoff to and including the subject property.

(24) "Drainage site" means a geographical area that serves a common or combined use including but not limited to shopping malls and strips, condominiums, apartment complexes, office parks, and housing tracts. A site may include one or more parcels and/or include one or more buildings. See also "Development."

(25) "Drainage system" means the system of collecting, conveying, and storing surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water runoff conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and manmade.

(26) "Drainage treatment/abatement facilities" means any facilities installed or constructed in conjunction with a drainage plan for the purpose of treating urban runoff to improve water quality, excluding retention or detention facilities.

(27) "Effective impervious area" means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system.

(28) "Engineer" means the city engineer or development services manager, as designated for enforcement of capital or private development activities, of Marysville.

(29) "Environmentally sensitive areas" means areas defined as such by the Marysville sensitive areas ordinance.

(30) "Erosion" means the wearing away of the land surface by running water, wind, ice or other geological agents, including such processes as gravitational creep, and the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

(31) "Erosion and sediment control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.

(32) "Excavation" means the mechanical removal of earth material.

(33) "Exception" means relief from specific mandates of a minimum requirement.

(34) "Fill" means a deposit of earth material placed by artificial means.

(35) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Pre-commercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

(36) "Grade" means the slope of a road, channel or natural ground, the finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of a conduit.

(37) "Existing grade" means the grade prior to grading.

(38) "Rough grade" means the stage at which the grade approximately conforms to the approved plan.

(39) "Finish grade" means the final grade of the site, which conforms to the approved plan.

(40) "Grading" or "grading activity" means any excavating, filling, or grading or combination thereof.

(41) "Ground water" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

(42) "Illicit discharge" means all non-storm water discharges to storm water drainage systems that cause or contribute to a violation of state water quality, sediment quality, or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing, and gray water systems.

(43) "Impervious areas" means that hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving,

gravel roads, packed earthen materials, and oil, macadam, or other surfaces which similarly impede the natural infiltration of surface and storm water runoff. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of this chapter.

(44) "Interflow" means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface for example, in a roadside ditch, wetland, spring or seep.

(45) "Land clearing" or "clearing" means the destruction or removal of vegetation from a site by physical, mechanical, chemical or other means. This does not mean mowing, landscape maintenance or pruning consistent with accepted horticultural and arboricultural practices, which does not impair the health or survival of the trees and associated vegetation.

(46) "Land-disturbing activities" means any activity that disturbs or alters land surface including clearing and grading.

(47) "Lowest floor" means the lowest enclosed area (including basement) of a structure. An area used solely for parking of vehicles, building access, or storage is not considered a building's lowest floor; provided, that the enclosed area meets all of the structural requirements of the flood hazard standards.

(48) "Manual" refers to the Washington Department of Ecology's "Storm Water Management Manual for Western Washington," as amended.

(49) "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

(50) "Natural location" of drainage systems refers to the location of those channels, swales, and other natural conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate.

(51) "New development" means the following activities: land-disturbing activities; structural development, including construction, installation, or expansion of building or other structures; installation of impervious surfaces, and subdivisions or short plats.

(52) "On-site storm water management BMPs" means site development techniques that serve to infiltrate, disperse, and retain storm water runoff on-site.

(53) "Parcel" means a tract or plot of land of any size, which may or may not be subdivided or improved.

(54) "Permanent erosion and sediment control" means the continuous on-site and off-site control measures that are needed to prevent accelerated erosion, sedimentation or related pollution from occurring after completion of the grading activity or the construction project.

(55) "Permanent storm water control (PSC) plan" means a plan which includes permanent BMPs for the control of pollution from storm water runoff after construction and/or land-disturbing activity has been completed.

(56) "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

(57) "Planned residential developments" refers to residential developments which are planned and/or developed in several stages but submitted together for approvals, and which typically consist of clusters of structures interspersed with areas of common open spaces (refer to Chapter 19.48 MMC).

(58) "Pollutant" shall mean any substance which, when added to water, would contaminate or alter the chemical, physical, or biological properties of any waters of the city's drainage system or of the state. This includes a change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the city's drainage system or of the state as will or is likely to create a nuisance. It also includes any substance which renders such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial use, or to livestock, wild animals, birds, fish, or other aquatic life.

(59) "Pollution" means contamination or other alteration of the physical, chemical or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any

waters of the state and will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreation or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(60) "Pollution-generating impervious surface (PGIS)" means those impervious surfaces considered to be a significant source of pollutants in storm water runoff. Such surfaces include those which are subject to: vehicular use; industrial activities; or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage. Metals roofs are also considered to be PGIS unless they are coated with an inert, nonleachable material (e.g., baked-on enamel coating).

A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.

The following are not considered regularly used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, and infrequently used maintenance access roads.

(61) "Pollution-generating pervious surface (PGPS)" means any nonimpervious surface subject to use of pesticides, fertilizers, or loss of soil.

(62) "Private drainage system" means drainage systems located on private property and designed to discharge directly as through pipes, channels, etc., or indirectly as sheet flow, subsurface flow, etc., into the city's drainage system.

(63) "Project site" means that portion of a property, properties, or right-of-way subject to land-disturbing activities, new impervious surfaces, or replaced impervious surfaces.

(64) "Public drainage system" means that portion of the drainage system of the city located on public right-of-way, easements or other property owned by the city, and those portions of private drainage systems operated and maintained by the city.

(65) "Receiving waters" means bodies of water or surface water systems receiving water from upstream manmade (or natural) systems. For the purpose of this chapter, receiving waters are Ebey Slough and the Snohomish River.

(66) "Redevelopment" means, on an already developed site, the creation and/or addition of impervious surfaces, structural development including construction, installation, or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land-disturbing activities associated with structural or impervious redevelopment.

(67) "Regional" means an action that involves more than one discrete parcel.

(68) "Regional detention facility" means a storm water quantity control structure designed to correct existing surface water runoff problems for all or a portion of a basin or sub-basin. This term is also used when a detention facility is used to detain storm water runoff from a number of different businesses, developments or areas within a catchment.

(69) "Replaced impervious surface" means the removal and replacement of any exterior impervious surfaces or foundation of a structure. Other impervious surfaces are considered replaced if first removed down to bare soil or base course.

(70) "Retention/detention facility (R/D)" means a type of drainage system designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground; or to hold surface and storm water runoff for short period of time and then release it to the surface and storm water management system.

(71) "Sediment" means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its original site of origin.

(72) "Sedimentation" means the process by which sediment has been transported off the site of the grading activity and settled onto land or the bed of a creek, stream, river, wetland, pond, or other water body.

(73) "Site" means the area defined by the legal boundaries of a parcel or parcels of land subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

(74) "Site plan" means a plan which indicates the character of the existing site, topography, natural drainage features on or adjacent to the site, the location and dimensions of all impervious surfaces, flow arrows indicating the direction of storm water flows on-site, and any off-site flows entering the site, the proposed method of utilizing the existing drainage system.

(75) "Slope" means the degree of deviation of a surface from the horizontal, measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1.

(76) "Soil" means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

(77) "Source control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with storm water through physical separation of areas or careful management of activities that are sources of pollutants. A few examples of source control BMPs are erosion control practices, maintenance of storm water facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

(78) "Storm drainage plan" means a plan approved by the city of Marysville which includes either a small parcel or large parcel erosion and sediment control plan and/or a water quality control plan.

(79) "Storm water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, or other features of a storm water drainage system into a defined surface waterbody or a constructed infiltration facility.

(80) "Storm Water Management Manual for Western Washington" means the manual prepared by the Department of Ecology that contains BMPs to prevent or reduce pollution.

(81) "Storm water site plan" means the comprehensive report containing all of the technical information and analysis necessary to evaluate a proposed new development or redevelopment project for compliance with storm water requirements. Contents of the storm water site plan will vary with the type and size of the project, and individual site characteristics. It includes a construction storm water pollution prevention plan (construction SWPPP) and a permanent storm water control plan (PSC plan).

(82) "Subject property" means the tract of land which is the subject of the permit and/or approval action.

(83) "Surface water" means the naturally occurring water that flows over or is stored on the earth's surface.

(84) "Temporary erosion control" means the on-site and off-site control measures that are needed during construction activities to prevent accelerated erosion, sedimentation or related pollution from occurring, but may not be needed when the project is completed or when ground conditions have been stabilized by permanent erosion control measures.

(85) "Threshold discharge area" means an on-site area draining to a single natural discharge location or multiple natural discharge locations that combine within one-quarter mile downstream (as determined by the shortest flowpath).

(86) "Total maximum daily load (TMDL)" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources.

(87) "Undeveloped conditions" means the state, status, or condition of the subject property prior to any development of the property that has occurred, which may include trees, pastures, meadows, or native features.

(88) "Uncontaminated" means water that has not come into contact with illicit discharges.

(89) "Waterbody" means surface waters including rivers, streams, lakes, marine waters, estuaries and wetlands.

(90) "Water quality control plan (WQCP)" means a plan which includes permanent BMPs for the control of pollution from storm water runoff after construction and/or land-disturbing activity has been completed.

(91) "Water quality design flow rate" means:

(a) Preceding detention facilities or when detention facilities are not required: that rate at or below which 91 percent of the runoff volume, as estimated by an approved continuous runoff model, will be treated.

(b) Downstream of detention facilities: the full two-year release rate from the detention facility.

(92) "Water quality design storm" means the 24-hour rainfall amount with a six-month return frequency. It is commonly referred to as the six-month, 24-hour design storm.

(93) "Water quality design storm volume" means the volume of runoff predicted from a 24-hour storm with a six-month return frequency.

(94) "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC or succeeding regulation.

(95) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally include swamps, marshes, bogs, and similar areas. "Wetlands" do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, "wetlands" include those artificial wetlands intentionally created to mitigate conversion of wetlands. See the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January, 1987) for more information. (Ord. 2476 § 2, 2003).

14.15.030 Applicability.

(1) All persons taking any of the following actions or applying for any of the following permits and/or approvals shall, unless otherwise excepted or exempted by other provisions of this chapter, be required to submit for approval a site plan with their application and/or request:

(a) Creation or alteration of new or additional impervious surfaces;

(b) New development;

(c) Redevelopment;

(d) Building permit;

(e) Subdivision approval;

(f) Short subdivision approval;

(g) Commercial, industrial, or multifamily site plan approval;

(h) Planned unit development;

(i) Development within or adjacent to sensitive areas per Chapter 19.24 MMC;

(j) Conditional use permits;

(k) Substantial development permit required under Chapter 90.58 RCW (Shoreline Management Act);

(l) Logging, clearing, and other land-disturbing activities. Exception: Activities not requiring machinery for construction or excavation and that are not subject to other environmental regulation are considered exempt from the provisions of this chapter. In addition to a site plan, other plan requirements are set out in the text of this chapter and are summarized for various types of activities in MMC 14.15.040.

(2) Commencement of construction work under any of the nonexempt actions, permits, or applications set forth in subsection (1) of this section shall not begin until the department approves a storm water pollution prevention plan pursuant to MMC 14.15.050(2). Exception: A site plan only, and no storm water pollution prevention, shall be required for activities on single-family lots in subdivisions where the final plat for the subdivision occurred after May 1, 1999.

(3) Guidance on preparing a storm water pollution prevention plan is contained in the manual.

(4) Whenever a minimum area or quantity requirement is set forth in this chapter, such requirement shall be met if any activity or development occurs on the subject property within a continuous 18-month period. (Ord. 2476 § 2, 2003).

14.15.040 Minimum requirement thresholds.

(1) New Development. The minimum requirements discussed in this section are described in MMC 14.15.050. All new development shall be required to comply with minimum requirement no. 2. In addition, new development that exceeds certain thresholds shall be required to comply with additional minimum requirements described in MMC 14.15.050 as follows:

(a) The following new development shall comply with minimum requirements nos. 1 through 5:

(i) Development that includes the creation or addition of 2,000 square feet or greater of new, replaced, or new plus replaced impervious surface area; or

(ii) Development that includes land disturbing activity of 7,000 square feet or greater.

(b) The following new development shall comply with minimum requirements nos. 1 through 10.

(i) Creates or adds 5,000 square feet or greater of new impervious surface area; or

(ii) Converts three-quarters acres or more of native vegetation to lawn or landscaped areas; or

(iii) Converts 2.5 acres or more of native vegetation to pasture.

(2) Redevelopment. All redevelopment shall be required to comply with minimum requirement no. 2. In addition, redevelopment that exceeds certain thresholds shall be required to comply with additional minimum requirements described in MMC 14.15.050 as follows:

(a) The following redevelopment shall comply with minimum requirements nos. 1 through 5 for the new and replaced impervious surfaces and the land disturbed:

(i) The new, replaced, or total of new plus replaced impervious surfaces is 2,000 square feet or more; or

(ii) Redevelopment that includes land-disturbing activity of 7,000 square feet or more.

(b) The following redevelopment shall comply with minimum requirements nos. 1 through 10 for the new impervious surfaces and converted pervious surfaces:

(i) Redevelopment that adds 5,000 square feet or more of new impervious surfaces; or

(ii) Redevelopment that converts three-quarters acres or more of native vegetation to lawn or landscaped areas; or

(iii) Redevelopment that converts 2.5 acres or more of native vegetation to pasture.

(c) Commingled Storm Water. If the runoff from the new impervious surfaces and converted pervious surfaces is not separated from runoff from other surfaces on the project site, the storm water treatment facilities must be sized for the entire flow that is directed to them.

(d) Equivalent Area. The director may allow the minimum requirements to be met for an equivalent (flow and pollution characteristics) area within the same site. For public road projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.

(e) Road Related Projects. Runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) shall meet all the minimum requirements if the new impervious surfaces total 5,000 square feet or more and total 50 percent or more of the existing impervious surfaces within the project limits. The project limits shall be defined by the length of the project and the width of the right-of-way.

Assessed Value Threshold[1]. Other types of development not regulated by subsection (2)(e) of this section shall comply with all the minimum requirements for the new and replaced impervious surfaces if the total of the new plus replaced impervious surfaces is 5,000 square feet or more, and the valuation of proposed improvements, including interior improvements, exceeds 50 percent of the assessed value of the existing site improvements.

(f) Regional Facilities. The director may exempt or institute a stop-loss provision for redevelopment projects from compliance with minimum requirements for treatment, flow control, and wetlands protection as applied to the replaced impervious surfaces if the city has adopted a plan and schedule that fulfills those requirements in regional facilities. (Ord. 2476 § 2, 2003).

14.15.050 Minimum requirements.

This section identifies the 10 minimum requirements for storm water management applicable to new development and redevelopment sites. See the manual for additional details related to each of the minimum requirements. The minimum requirements are:

- Preparation of Storm Water Site Plans
- Construction Storm Water Pollution Prevention
- Source Control of Pollution
- Preservation of Natural Drainage Systems and Outfalls
- On-Site Storm Water Management
- Runoff Treatment
- Flow Control
- Wetlands Protection
- Basin/Watershed Planning
- Operation and Maintenance

(1) Minimum Requirement No. 1: Preparation of Storm Water Site Plans. All projects meeting the thresholds in MMC 14.15.040 shall prepare a storm water site plan.

(2) Minimum Requirement No. 2: Construction Storm Water Pollution Prevention (SWPP). All new development and redevelopment shall comply with construction SWPP elements nos. 1 through 12 below.

(a) Projects in which the new, replaced, or new plus replaced impervious surfaces total 2,000 square feet or more or disturb 7,000 square feet or more of land must prepare a construction SWPP plan (SWPPP) as part of the storm water site plan. Each of the 12 elements must be considered and included in the construction SWPPP unless the director decides that site conditions render the element unnecessary and the exemption from that element is clearly justified in the narrative of the SWPPP.

(b) Projects that add or replace less than 2,000 square feet of impervious surface or disturb less than 7,000 square feet of land are not required to prepare a construction SWPPP, but must consider all of the 12 elements of construction storm

1. See the Supplemental Guidelines in Volume 1, page 2-13 of the Storm Water Management Manual for Western Washington for other monetary criteria options.

water pollution prevention and develop controls for all elements that pertain to the project site.

(c) Element 1: Mark Clearing Limits.

(i) Prior to beginning land disturbing activities, including clearing and grading, all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area should be clearly marked, both in the field and on the plans, to prevent damage and off-site impacts.

(ii) Plastic, metal, or stake wire fence may be used to mark the clearing limits.

(d) Element 2: Establish Construction Access.

(i) Access Limited. Construction vehicle access and exit shall be limited to one route if possible.

(ii) Tracking Sediment. Access points shall be stabilized with quarry spall or crushed rock to minimize the tracking of sediment onto public roads.

(iii) Wheel Wash. Wheel wash or tire baths should be located on-site, if applicable.

(iv) Clean Public Roads. Public roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area. Street washing will be allowed only after sediment is removed in this manner.

(v) Street Wash Water. Street wash wastewater shall be controlled by pumping back on-site, or otherwise be prevented from discharging into systems tributary to state surface waters.

(e) Element 3: Control Flow Rates.

(i) General. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of storm water runoff from the project site.

(ii) Downstream Analysis. Downstream analysis is necessary if changes in flows could impair or alter conveyance systems, stream banks, bed sediment or aquatic habitat.

(iii) BMPs Functional. Storm water retention/detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g., impervious surfaces).

(iv) Additional Flow Standards. The director may require pond designs that provide additional or different storm water flow control if necessary to address local conditions or to protect properties and waterways downstream from erosion due to increases in the volume, velocity, and peak flow rate of storm water runoff from the project site.

(v) Permanent Infiltration Ponds. If permanent infiltration ponds are used for flow control during construction, these facilities should be protected from siltation during the construction phase.

(f) Element 4: Install Sediment Controls.

(i) Natural Vegetation. The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum extent practicable.

(ii) Sediment Removal BMP. Prior to leaving a construction site, or prior to discharge to an infiltration facility, storm water runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard of element no. 3. Full stabilization means concrete or asphalt paving; quarry spalls used as ditch lining; or the use of rolled erosion products, a bonded fiber matrix product, or vegetative cover in a manner that will fully prevent soil erosion. The director shall inspect and approve areas stabilized by means other than pavement or quarry spalls.

(iii) BMPs Functional. Sediment ponds, vegetated buffer strips, sediment barriers or filters, dikes, and other BMPs intended to trap sediment on-site shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land disturbing activities take place.

(iv) Seeding. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indicated in element no. 5.

(g) Element 5: Stabilize Soils.

(i) General. All exposed and unworked soils shall be stabilized by application of effective BMPs that protect the soil from the erosive forces of raindrop impact and flowing water, and wind erosion.

(ii) Applicable Practices. Applicable practices include, but are not limited to, temporary and permanent seeding, sodding, mulching, plastic covering, soil application of polyacrylamide (PAM), early application of gravel base on areas to be paved, and dust control.

(iii) Soil Stabilization. Soil stabilization measures selected should be appropriate for the time of year, site conditions, estimated duration of use, and potential water quality impacts that stabilization agents may have on downstream waters or ground water.

(iv) Soil Stockpiles. Soil stockpiles must be stabilized and protected with sediment trapping measures.

(v) Linear Facilities. Work on linear construction sites and activities, including right-of-way and easement clearing, roadway development, pipelines, and trenching for utilities, shall not exceed the capability of the individual contractor for his portion of the project to install the bedding materials, roadbeds, structures, pipelines, and/or utilities, and to restabilize the disturbed soils, meeting the timing conditions listed above in subsection (2)(g)(ii) of this section.

(h) Element 6: Protect Slopes.

(i) Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion.

(ii) Soil Types. Consider soil type and its potential for erosion.

(iii) Runoff Velocities. Reduce slope runoff velocities by reducing the continuous length of slope with terracing and diversions, reduce slope steepness, and roughen slope surface.

(iv) Diverted Flows. Divert upslope drainage and run-on waters from off-site with interceptors at top of slope. Off-site storm water should be handled separately from storm water generated on the site. Diversion of off-site storm water around the site may be a viable option. Diverted flows shall be redirected to the natural drainage location at or before the property boundary.

(v) Collected Flows. Contain downslope collected flows in pipes, slope drains, or protected channels.

(vi) Ground Water. Provide drainage to remove ground water intersecting the slope surface of exposed soil areas.

(vii) Excavation. Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

(viii) Check Dams. Check dams shall be placed at regular intervals within trenches that are cut down a slope.

(ix) Stabilize Soils. Stabilize soils on slopes, as specified in element no. 5.

(i) Element 7: Protect Drain Inlets.

(i) General. All storm drain inlets made operable during construction shall be protected so that storm water runoff shall not enter the conveyance system without first being filtered or treated to remove sediment.

(ii) Roads. All approach roads shall be kept clean, and all sediment and street wash water shall not be allowed to enter storm drains without prior and adequate treatment unless treatment is provided before the storm drain discharges to waters of the state.

(j) Element 8: Stabilize Channels and Outlets.

(i) General. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected velocity of flow from a two-year, 24-hour frequency storm for the developed condition.

(ii) Stabilization. Stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

(k) Element 9: Control Pollutants.

(i) General. All pollutants, including waste materials and demolition debris, that occur on-site during construction shall be handled and disposed of in a manner that does not cause contamination of storm water.

(ii) Vandalism. Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and noninert wastes present on the site.

(iii) Equipment Maintenance. Maintenance and repair of heavy equipment and vehicles involving oil changes, hydraulic system drain down, solvent and degreasing cleaning operations, fuel tank drain down and removal, and other activities which may result in discharge or spillage of pollutants to the ground or into storm water runoff must be conducted using spill prevention measures, such as drip pans. Contaminated surfaces shall be cleaned immediately following any discharge or spill incident. Emergency repairs may be performed on-site using temporary plastic placed beneath and, if raining, over the vehicle.

(iv) Wheel Wash. Wheel wash, or tire bath wastewater, shall be discharged to a separate on-site treatment system. It may be discharged to the sanitary sewer system only if expressly allowed by the local sewer district authority.

(v) Agricultural Chemicals. Application of agricultural chemicals, including fertilizers and pesticides, shall be conducted in a manner and at application rates that will not result in loss of chemical to storm water runoff. Manufacturers' recommendations shall be followed for application rates and procedures.

(vi) pH Management. Management of pH-modifying sources shall prevent contamination of runoff and storm water collected on the site. These sources include, but are not limited to, bulk cement, cement kiln dust, fly ash, new concrete

washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, and concrete pumping and mixer washout waters.

(l) Element 10: Control Dewatering.

(i) General. All foundation, vault, and trench dewatering water, which have similar characteristics to storm water runoff at the site, shall be discharged into a controlled conveyance system, prior to discharge to a sediment trap or sediment pond. Channels must be stabilized, as specified in element no. 8.

(ii) Clean Water. Clean, nonturbid dewatering water, such as well-point ground water, can be discharged to systems tributary to state surface waters, as specified in element no. 8, provided the dewatering flow does not cause erosion or flooding of the receiving waters. These clean waters should not be routed through sediment ponds with storm water.

(iii) Contaminated Water. Highly turbid or otherwise contaminated dewatering water, such as from construction equipment operation, clamshell digging, concrete tremie pour, or work inside a cofferdam, shall be handled separately from storm water at the site.

(iv) Other Disposal Options. Depending on site constraints, dewatering may include: infiltration; transport off-site in vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters; on-site treatment using chemical treatment or other suitable treatment technologies; or sanitary sewer discharge with (local sewer district approval) approval if there is no other option.

(m) Element 11: Maintain BMPs.

(i) General. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with BMPs.

(ii) Inspection. Sediment control BMPs shall be inspected weekly or after a runoff-producing storm event during the dry season and daily during the wet season.

(iii) Remove BMPs. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of BMPs or vegetation shall be permanently stabilized.

(n) Element 12: Manage the Project.

(i) Phasing of Construction. Development projects shall be phased where feasible in order to prevent, to the maximum extent practicable, the transport of sediment from the project site during construction. Revegetation of exposed areas and maintenance of that vegetation shall be an integral part of the activities for any phase. Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. When establishing these permitted clearing and grading areas, consideration should be given to minimizing removal of existing trees and minimizing disturbance/compaction of native soils except as needed for building purposes. These permitted clearing and grading areas and any other areas required to preserve critical or sensitive areas, buffers, native growth protection easements, or tree retention areas as may be required by the director, shall be delineated on the site plans and the development site.

(ii) Coordination with Other Contractors. The primary project applicant shall evaluate, with input from utilities and other contractors, the storm water management requirements for the entire project, including the utilities, when preparing the construction SWPPP.

(iii) Inspection. All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function.

(A) Certified Professional. A certified professional in erosion and sediment control shall be identified in the construction SWPPP and shall be on-site or on-call at all times. Certification may be through the Washington State Department of Transportation/Associated General Contractors (WSDOT/AGC) Construction Site Erosion and Sediment Control Certification Program or any equivalent local or national certification and/or training program.

(B) Sampling. Sampling and analysis of the storm water discharges from a construction site may be necessary on a case-by-case basis to ensure compliance with standards. Monitoring and reporting requirements may be established by the director when necessary.

(C) Modify SWPPP. Whenever inspection and/or monitoring reveals that the BMPs identified in the construction SWPPP are inadequate, due to the actual discharge of or potential to discharge a significant amount of any pollutant, the

SWPPP shall be modified, as appropriate, in a timely manner.

(iv) Construction SWPPP. The construction SWPPP shall be retained on-site or within reasonable access to the site. The construction SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance of any BMP.

(3) Minimum Requirement No. 3: Source Control of Pollution. All known, available and reasonable source control BMPs shall be applied to all projects. Source control BMPs shall be selected, designed, and maintained according to the manual.

(4) Minimum Requirement No. 4: Preservation of Natural Drainage Systems and Outfalls. Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and downgradient properties. All outfalls require energy dissipation.

(5) Minimum Requirement No. 5: On-Site Storm Water Management. Projects shall employ on-site storm water management BMPs to infiltrate, disperse, and retain storm water runoff on-site to the maximum extent feasible without causing flooding or erosion impacts. On-site storm water management BMPs as identified in the manual shall be used for roof downspout control, flow dispersion, and soil quality.

(6) Minimum Requirement No. 6: Runoff Treatment.

(a) Thresholds. The following require construction of storm water treatment facilities (see Table 14.15.050(6)(a)):

(i) Projects in which the total of effective, pollution-generating impervious surface (PGIS) is 5,000 square feet or more in a threshold discharge area of the project; or

(ii) Projects in which the total of pollution-generating pervious surfaces (PGPS) is three-quarters of an acre or more in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site.

(iii) That portion of any development project in which the above PGIS or PGPS thresholds are not exceeded in a threshold discharge area shall apply on-site storm water management BMPs in accordance with minimum requirement no. 5.

Table 14.15.050(6)(a)

Treatment Requirements by Threshold Discharge Area				
	< 3/4 acres PGPS	> 3/4 acres PGPS	< 5,000 sf PGIS	> 5,000 sf PGIS
Treatment Facilities		✓		✓
On-Site Storm Water BMPs	✓	✓	✓	✓

PGPS = pollution-generating pervious surfaces
PGIS = pollution-generating impervious surfaces
sf = square feet

(b) Treatment Facility Sizing. Treatment facilities shall be sized to provide effective treatment of 91 percent of the annual average runoff volume.

(i) The water quality design volume shall be used to size volume-based treatment facilities. The volume of runoff shall be estimated using methods approved in the manual.

(ii) The water quality design flow rate shall be used to size flow rate-based treatment facilities.

(iii) The director may allow alternative methods if they identify volumes and flow rates that are at least equivalent.

(c) Treatment Facility Selection, Design, and Maintenance. Storm water treatment facilities shall be:

(i) Selected in accordance with the process identified in the manual;

(ii) Designed in accordance with the design criteria in the manual; and

(iii) Maintained in accordance with the maintenance schedule in the manual.

(d) Untreated Storm Water. Direct discharge of untreated storm water from pollution-generating impervious surfaces to ground water is prohibited, except for the discharge achieved by infiltration or dispersion of runoff from residential sites through use of on-site storm water management BMPs.

(7) Minimum Requirement No. 7: Flow Control.

(a) Applicability.

(i) Flow Control. Projects must provide flow control to reduce the impacts of storm water runoff from impervious[1] surfaces and land cover conversions. The requirement below applies to

projects that discharge storm water directly, or indirectly, through a conveyance system, into fresh water, except for discharges into a wetland. (See minimum requirement no. 8 for flow control requirements applicable to discharges to wetlands.)

(ii) Exempt Areas. The director may petition the Department of Ecology to exempt projects in certain areas provided those areas also meet the following criteria:

(A) The area must be drained by a conveyance system that is comprised entirely of manmade conveyance elements (e.g., pipes, ditches, outfall protection, etc.) and extends to the ordinary high water line of the receiving water; and

(B) Any erodible elements of the manmade conveyance system for the area must be adequately stabilized to prevent erosion; and

(C) Surface water from the area must not be diverted from or increased to an existing wetland, stream, or near-shore habitat sufficient to cause a significant adverse impact.

(b) Thresholds. The following require construction of flow control facilities and/or land use management BMPs that will achieve the standard requirement for western Washington (see subsection (7)(c) of this section):

Table 14.15.050(7)(b)

Flow Control Requirements by Threshold Discharge Area		
	Flow Control Facilities	On-Site Storm Water Management BMPs
< 3/4 acres conversion to lawn/landscape, or < 2.5 acres to pasture		✓
> 3/4 acres conversion to lawn/landscape, or > 2.5 acres to pasture	✓	✓
< 10,000 square feet of effective impervious area		✓
> 10,000 square feet of effective impervious area	✓	✓

1. The Storm Water Management Manual for Western Washington (Volume I, page 2-29) includes the words "increased" and "new" prior to "impervious surfaces." This is an error that will be corrected via addenda to the manual.

Table 14.15.050(7)(b)

Flow Control Requirements by Threshold Discharge Area		
	Flow Control Facilities	On-Site Storm Water Management BMPs
> 0.1 cubic feet per second increase in the 100-year flood frequency	✓	✓

(i) Projects in which the total of effective impervious surfaces is 10,000 square feet or more in a threshold discharge area; or

(ii) Projects that convert three-quarters acres or more of native vegetation to lawn or landscape, or convert 2.5 acres or more of native vegetation to pasture in a threshold discharge area, and from which there is a surface discharge in a natural or manmade conveyance system from the site; or

(iii) Projects that through a combination of effective impervious surfaces and converted pervious surfaces, cause a 0.1 cubic feet per second increase in the 100-year flow frequency from a threshold discharge area as estimated using the Western Washington Hydrology Model or other model authorized by the director.

(iv) That portion of any development project in which the above thresholds are not exceeded in a threshold discharge area shall apply on-site storm water management BMPs in accordance with minimum requirement no. 5.

(c) Standard Requirement.

(i) Peak Flows. Storm water discharges shall match developed discharge durations to predeveloped durations for the range of predeveloped discharge rates from 50 percent of the two-year peak flow up to the full 50-year peak flow.

(ii) Predeveloped Condition. The predeveloped condition to be matched shall be a forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement (modeled as "pasture" in the Western Washington Hydrology Model). This standard requirement is waived for sites that will reliably infiltrate all the runoff from impervious surfaces and converted pervious surfaces.

(d) Flow Control Facility Selection, Design, and Maintenance. Flow control facilities shall be selected, designed, and maintained in accordance with the manual.

(e) The base of a permanent infiltration systems shall be a minimum of three feet above the seasonal high ground water mark.

(8) Minimum Requirement No. 8: Wetlands Protection.

(a) Applicability. The requirements below apply only to projects whose storm water discharges into a wetland, either directly or indirectly through a conveyance system. These requirements must be met in addition to meeting minimum requirement no. 6, runoff treatment.

(b) Thresholds. The thresholds identified in minimum requirement no. 6, runoff treatment, and minimum requirement no. 7, flow control, shall also be applied for discharges to wetlands.

(c) Standard Requirement. Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. A wetland can be considered for hydrologic modification and/or storm water treatment in accordance with guidance within the manual.

(d) Additional Requirements. The standard requirement does not excuse any discharge from the obligation to apply whatever technology is necessary to comply with state water quality standards, Chapter 173-201A WAC, or state ground water standards, Chapter 173-200 WAC or successor regulations. Storm water treatment and flow control facilities shall not be built within a natural vegetated buffer, except for: necessary conveyance systems as approved by the director; or as allowed in wetlands approved for hydrologic modification and/or treatment in accordance with the manual. An adopted and implemented basin plan (minimum requirement no. 9), or a total maximum daily load (TMDL) may be used to develop requirements for wetlands that are tailored to a specific basin.

(9) Minimum Requirement No. 9: Basin/ Watershed Planning. Projects may be subject to equivalent or more stringent minimum requirements for erosion control, source control, treatment, and operation and maintenance, and alternative requirements for flow control and wetlands hydrologic control as identified in basin/watershed plans. Standards developed from basin plans shall not modify any of the above minimum requirements until the basin plan is formally adopted and implemented by the city within the basin, and approved or concurred with by the Department of Ecology.

(10) Minimum Requirement No. 10: Operation and Maintenance. An operation and maintenance manual that is consistent with the manual shall be provided for all proposed storm water facilities and BMPs, and the person responsible for maintenance and operation shall be identified. At private facilities, a copy of the manual shall be retained on-site or within reasonable access to the site, and shall be transferred with the property to the new owner. For public facilities, a copy of the manual shall be retained by the director or other appropriate location. A log of maintenance activity that indicates what actions were taken shall be kept and be available for inspection by the director. (Ord. 2476 § 2, 2003).

14.15.060 Mandatory requirements for all drainage improvements.

(1) Commencement of construction, grading or site alteration work under any of the permits or approvals listed in MMC 14.15.030 shall not begin until such time as final approval of the storm water site plan has been granted by the director or designee.

(2) Surface water entering the subject property shall be received at the naturally occurring location and surface water exiting the subject property shall be discharged at the natural location with adequate energy dissipaters to minimize downstream damage and with no diversion at any of these points.

(3) Where open ditch construction is used to handle drainage within the subject property, a minimum of 15 feet will be provided between any structures and the top of the bank of the defined channel.

(a) In open channel work the water surface elevation will be indicated on the plan and profile drawings. The configuration of the finished grades constituting the banks of the open channel will also be shown on the drawings.

(b) Proposed cross-section of the channel will be shown with stable side slopes. Side slopes will be three to one maximum unless stabilized in some manner approved by the department.

(c) The water surface elevation of the design flow will be indicated on the cross-section.

(4) Where a closed system is used to handle drainage within the subject property, all structures will be a minimum of 10 feet from the closed system.

(5) The proposed measures for controlling runoff during construction including a statement indicating the proposed staging of all clearing, grading and building activities.

(6) Drainage facilities shall be designed and constructed in accordance with city standards and as directed by the engineer.

(7) Vegetation shall be established on areas disturbed or other locations on the site to protect watercourses from erosion, siltation or temperature increases.

(8) Surface water exiting from the subject property shall have pollution control and oil separator devices installed at the discharge point from the subject property when draining parking lots with paved roadway surfaces or handling contaminated storm runoff.

(9) Where open detention/retention ponds are used to handle drainage within the subject property a 20-foot setback is required from all property lines. This setback may be reduced administratively through the drainage plan review process if it can be demonstrated that the reduction will not result in impacts on adjacent property, such as setbacks, or jeopardize the integrity of the pond or adjacent buildings.

(10) Background Computations for Sizing Drainage Facilities.

(a) Depiction of the drainage area on a topographical map, with acreage indicated;

(b) Indications of the peak discharge and amount of surface water currently entering and leaving the subject property;

(c) Indication of the peak discharge and amount of runoff which will be generated with the subject property, if development is allowed to proceed;

(d) Computations shall be prepared using either the Western Washington Hydrology Model (WWHM) or Waterworks software for hydrology as developed by Engenious Systems, Inc. Flow control and detention volumes will be computed using consistent software for the development. Format shall be as directed by public works director or designee.

(11) Where the manual cites five feet as the required ground water separation for infiltration facilities, three feet shall be used. (Ord. 2476 § 2, 2003).

14.15.065 Contents of a storm water site plan.

(1) Site Plan Required. All projects for new development or redevelopment, which exceed the thresholds of 2,000 square feet for impervious surfaces or 7,000 square feet for land disturbance, must prepare a storm water site plan.

(2) Contents of Plan. Contents of a storm water site plan will vary with the type and size of the project and individual site characteristics. Two major elements included in a storm water site plan are a construction storm water pollution prevention plan and a permanent storm water control plan. The following documents are to be included in a storm water site plan:

(a) Project overview;

(b) Existing conditions summary;

(c) Off-site analysis report (not necessary for manual equivalency);

(d) Construction storm water pollution prevention plan;

(e) Permanent storm water control plan;

(f) Special reports and studies;

(g) Other permits;

(h) Operation and maintenance manual.

(3) Detailed Information in Manual. Additional details on the content and the procedures for preparation of a storm water site plan, a construction storm water pollution prevention plan, and a permanent storm water quality control plan are included in the manual. (Ord. 2476 § 2, 2003).

14.15.070 Development in critical flood, drainage and/or erosion areas.

Development which would increase the volume of discharge from the subject property shall not be permitted in areas where existing flooding, drainage, and/or erosion conditions present an imminent likelihood of harm to the welfare and safety of the surrounding community or property, until such time as the community hazard is alleviated. Where application of the provisions of this section will deny all reasonable use of the property, the director or designee may waive the restrictions on development contained in this section; provided, that the resulting development shall be subject to all of the remaining terms and conditions of this chapter. (Ord. 2476 § 2, 2003).

14.15.080 Establishment of regional facilities.

(1) Public Benefit. In the event that public benefits would accrue due to modification of the drainage plan for the subject property to better implement the recommendations of the comprehensive drainage plan, the director or designee may recommend that the city should assume responsibility for the further design, construction, operation, and maintenance of the drainage facilities, or any increment thereof, on the subject property. Such decision shall be made concurrently with review and approval of the plan.

(2) Applicant's Responsibility. In the event that the city decides to assume responsibility for all or any portion of the design, construction, operation, and maintenance of the facilities, the applicant shall be required to contribute a prorated share to the estimated cost of the facilities; provided, that

such share shall not exceed the estimated costs of improvements the applicant would otherwise have been required to install. The applicant may be required to supply additional information at the request of the director or designee to aid in such determination by the city. (Ord. 2476 § 2, 2003).

14.15.090 Fees.

Fees shall be charged for preliminary review, construction plan review, inspection, and final plan review done upon completion of all civil work and approval of the final plat map. The city shall have the option of sending plans out for review, in which case fees will also include consultant rates. (Ord. 2476 § 2, 2003).

14.15.100 Construction standards and specifications.

The director shall prepare, administer, and enforce detailed construction standards and specifications for all on-site storm water and erosion control facilities. (Ord. 2476 § 2, 2003).

14.15.110 Review and approval of plans.

All storm drainage plans prepared in connection with any of the permits and/or approvals listed in MMC 14.15.030 shall be submitted for review and approval by the director or designee. (Ord. 2476 § 2, 2003).

14.15.120 Inspections – Construction.

All activities regulated by this chapter shall be inspected by the engineer and/or public works department. Projects shall be inspected at various stages of the work to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction; installation of BMPs' land-disturbing activities; installation of utilities, landscaping, retaining walls; and completion of project. When required by the director or designee, a special inspection and/or testing shall be performed.

The holder of any permit or approval issued subject to a detailed drainage plan shall arrange with the engineer for scheduling the following inspections:

(1) Initial Inspection. Whenever work on the site preparation, grading, excavations, or fill is ready to be commenced, but in all cases prior thereto;

(2) Rough Grading. When all rough grading has been completed;

(3) Bury Inspection. Prior to burial of any underground drainage structure;

(4) Finish Grading. When all work including installation of all drainage structures and other protective devices has been completed;

(5) Planting. When erosion control planting shows active growth.

In some circumstances not all of the above inspections may be necessary. It shall be the discretion of the public works director or designee to waive or combine any of the above inspections as dictated by conditions.

The public works director or designee shall inspect the work and shall either approve the same or notify the applicant in writing in what respects there has been failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant. The public works director or designee may make unscheduled site inspections to ensure compliance. Uncorrected violations will be subject to the provisions of MMC 14.15.190. (Ord. 2476 § 2, 2003).

14.15.130 Bonds and liability insurance required.

The department is authorized to require all persons constructing retention/detention or other drainage treatment/abatement facilities to post surety or cash bonds. Where such persons have previously posted, or are required to post, other such bonds on the facility itself or on other construction related to the facility, such person may, with the permission of the public works director or designee, and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

(1) Construction Bond. Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of performing said construction per the approved drainage plans. Alternatively, an equivalent cash deposit to an escrow account administered by a local account bank may be allowed at the city's option.

(2) Maintenance Bond. After satisfactory completion of the facilities and release of the construction bond by the city, the person constructing the facility shall commence a two-year period of satisfactory maintenance of the facility. A cash bond to be used at the discretion of the city, to correct deficiencies in said maintenance affecting public

health, safety and welfare, must be posted and maintained throughout the two-year maintenance period. The amount of the cash bond shall be determined by the public works director or designee. In addition, at the discretion of the city, a surety bond or cash bond to cover the cost of design defects or failures in workmanship shall also be posted and maintained through the two-year maintenance period. Alternatively, an equivalent cash deposit to an escrow account administered by a local account bank may be allowed, at the city's option.

(3) Liability Policy. The person constructing the facility shall maintain a liability policy in an amount to be determined by the city which shall name the city of Marysville as an additional insured and which shall protect the city from any liability for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in the case of facilities assumed by the city for maintenance pursuant to MMC 14.15.140, the liability policy shall be terminated when the city maintenance responsibility commences. (Ord. 2476 § 2, 2003).

14.15.140 City assumption of maintenance.

The city may assume the maintenance of retention/detention facilities after the expiration of the two-year maintenance period if:

(1) All of the requirements of this chapter have been fully complied with;

(2) The facilities have been inspected and approved by the department after two years of operation;

(3) The surety bond required in MMC 14.15.130 has been extended for one year, covering the city's first year of maintenance;

(4) All necessary easements entitling the city to properly maintain the facility have been conveyed to the city. (Ord. 2476 § 2, 2003).

14.15.150 Retroactivity relating to city maintenance of drainage facilities.

If any person constructing retention/detention facilities and/or receiving approval of drainage plans prior to the effective date of this chapter demonstrates, to the city's satisfaction, total compliance with the requirements of this chapter, the city may, after inspection, approval, and acknowledgment of the proper posting of the required bonds as specified in MMC 14.15.130, assume maintenance of the facilities. (Ord. 2476 § 2, 2003).

14.15.160 Maintenance of drainage facilities by owner.

In the event that the city elects not to assume the operation and maintenance responsibility for the facilities, it shall be the responsibility of the owner of the property, his heirs, successors and assigns, to operate, maintain, repair and replace the facilities in continuous compliance with the standards and specifications of the department. The director or designee shall have authority to periodically enter upon the property and inspect the facilities to ensure such compliance. (Ord. 2476 § 2, 2003).

14.15.165 Maintenance of drainage swales and ditches.

For provisions relating to the maintenance of drainage swales and ditches see MMC 14.17.030. (Ord. 2476 § 2, 2003).

14.15.170 Applicability to governmental entities.

All municipal corporations and governmental entities shall be required to submit a storm drainage plan and comply with the terms of this chapter when developing and/or improving land within the incorporated areas of the city of Marysville or within adjacent areas which may affect the city. (Ord. 2476 § 2, 2003).

14.15.175 Adjustments.

Adjustments to the minimum requirements may be granted prior to permit approval and construction. Adjustments must be reviewed in the context of each application, site and potential impacts. Approval does not establish precedent for subsequent applications that may reflect different scale, complexity and site conditions. After receiving proper written application the director may grant an adjustment provided that a written finding of fact is prepared, that addresses the following:

(1) The adjustment provides substantially equivalent environmental protection; and

(2) The objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are met. (Ord. 2476 § 2, 2003).

14.15.180 Exceptions.

Exceptions to the minimum requirements may be granted prior to permit approval and construction. Exceptions must be reviewed in the context of each application, site and potential impacts. Approval does not establish precedent for subsequent applications that may reflect different scale, complexity and site conditions. Application for an

exception shall be filed in writing with the director and shall adequately detail the reason for an exception. The director shall provide a legal public notice of an application for an exception, and legal public notice of the decision on the application. The director may grant an exception from the requirements of this chapter provided a written finding of fact is prepared that supports that the following criteria are met:

(1) That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the site in question, and every effort to find creative ways to meet the intent of the minimum standards has been made; and

(2) That the granting of the exceptions will not be detrimental to the public health, welfare, and safety, nor injurious to other properties in the vicinity and/or downstream, and to the quality of receiving waters; and

(3) The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements. (Ord. 2476 § 2, 2003).

14.15.185 Additional procedures and review.

In various sections of this chapter, the public works director or designee, the city engineer, and the city planner are empowered to impose requirements, give approvals, make determinations and the like (hereinafter in this section "administrative determination(s)"). This section sets out procedures for administrative determination(s). All administrative determination(s) shall be made in a timely manner to satisfy all requirements of state law. All administrative determination(s) shall be in writing and shall set out facts and conclusions to support the decision made. All administrative determination(s) shall be made to achieve the purposes of this chapter as set out in MMC 14.15.010. All administrative determination(s) may be appealed to the hearing examiner by filing written notice of appeal with the city clerk within 10 days of service of the administrative determination. (Ord. 2476 § 2, 2003).

14.15.190 Enforcement.

Enforcement of the provisions of this chapter shall be pursuant to MMC Title 4. (Ord. 2476 § 2, 2003).

14.15.200 No special duty created.

(1) It is the purpose of this chapter to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this chapter. No provision or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

(2) Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or by reason or as a consequence of any inspection, notice, or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officers, agents, or employees. (Ord. 2476 § 2, 2003).

14.15.210 Severability.

If any section, subsection, sentence, clause, phrase, or word of this chapter 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 chapter. (Ord. 2476 § 2, 2003).

14.15.220 Appeals.

The decision of the director may be appealed by an aggrieved party pursuant to MMC Title 15 to hearing examiner by filing written notice of appeal, including an appeal fee of $500.00, with the city's public works department or community development department, within 10 days of notice of the director's decision. (Ord. 2476 § 2, 2003).

Chapter 14.16

PUBLIC STORM DRAINAGE SYSTEM CODE

Sections:

14.16.010 Purposes.
14.16.015 Developer-installed storm water facilities located in city right-of-way.
14.16.020 Ownership and maintenance of public facilities.
14.16.025 Maintenance of drainage swales and ditches.
14.16.030 Construction standards and specifications.
14.16.040 Connections required.
14.16.050 Extensions for full lot frontage.
14.16.060 Application for connection, application fee and issuance of permit.
14.16.070 Inspections – Fees.
14.16.090 Limitations on storm water quality.
14.16.100 Unlawful contamination of storm water – Penalty.
14.16.110 Unauthorized connections.
14.16.120 Oversizing reimbursement.
14.16.130 Recovery contracts.
14.16.140 Damage to storm drainage lines or facilities – Penalties.

14.16.010 Purposes.

A public storm drainage system is a necessary utility in the city of Marysville for the purpose of preserving the city's watercourses, minimizing water quality degradation, controlling sedimentation of creeks and other water bodies, protecting properties located adjacent to developing land from increased runoff rates and erosion, protecting downstream properties, preserving and enhancing the suitability of waters for recreation and fishing, preserving and enhancing the aesthetic quality of waterways, minimizing adverse effects of alterations in ground water qualities, locations and flow patterns, insuring the safety of city roads and rights-of-way, and decreasing drainage-related damage to public and private property. (Ord. 2245 § 3, 1999).

14.16.015 Developer-installed storm water facilities located in city right-of-way.

The city may assume the operation and maintenance of developer-installed retention/detention or other drainage type treatment/abatement facilities located in the city right-of-way or on city-owned property after the expiration of the two-year operation and maintenance period if:

(1) All the requirements of this chapter have been fully complied with;

(2) The facilities have been inspected and approved by the engineer after two years of operation. (Ord. 2245 § 3, 1999).

14.16.020 Ownership and maintenance of public facilities.

All storm drainage lines, facilities and appurtenances located on public right-of-way or other property owned by the city shall belong to the city and shall be maintained, repaired and replaced to the extent the city determines to be in the public interest, and at the city's cost. All privately constructed extensions of the public storm drainage lines and facilities shall be conveyed to the city by bill of sale and shall be accompanied by a warranty of the grantor that said lines and facilities are free of debt and were constructed in accordance with city standards and specifications. The grantor shall further warrant the labor and materials used in the construction of said lines and facilities for a period of one year from the date of conveyance to the city, and shall indemnify and hold the city harmless from any damages arising from defective materials or workmanship. If a public storm drainage line or facility is located on private property, the grantor shall convey to the city a 10-foot wide easement for reconstructing, repairing, maintaining, altering, changing, controlling and operating said line or facility. (Ord. 2245 § 3, 1999).

14.16.025 Maintenance of drainage swales and ditches.

For provisions relating to the maintenance of drainage swales and ditches, see MMC 14.17.030. (Ord. 2245 § 3, 1999).

14.16.030 Construction standards and specifications.

The public works director or designee shall prepare, administer and enforce detailed construction standards and specifications for all storm drainage lines and facilities which are to be connected to the public storm drainage system and which are to be publicly owned and maintained. The city shall not accept ownership or maintenance responsibility for any lines or facilities which are constructed in violation of said standards and specifications. (Ord. 2245 § 3, 1999).

14.16.040 Connections required.

(1) The owner of any property which is not connected to the public storm drainage system shall be required to extend any storm drainage line which is

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within 200 feet of the property, and to connect to and use the same for all developed portions of the property, under any of the following circumstances:

(a) As a condition of final approval of a subdivision;

(b) As a condition of final approval of a short subdivision;

(c) As a condition of final approval of a binding site plan for any mobile home park, condominium, planned unit development, industrial park or shopping center;

(d) As a condition of any building, grading, paving or other development approval, including rezones or conditional use permits, which will have a significant adverse impact upon storm drainage; as determined by the public works director or designee.

(2) The public works director or designee may waive the requirement of subsection (1) of this section on the following grounds:

(a) If the public works director or designee finds that the capacity or condition of the existing public storm drainage system is insufficient or inadequate to serve the subject property; or

(b) If the public works director or designee finds that it would cause a practical difficulty to require the connection of the subject property to the public storm drainage system by reason of circumstances which are unique to the property and not generally shared by other properties in the vicinity.

No such waiver shall be granted which would be detrimental to the public health, safety, welfare or environment, or which would be inconsistent with the long-range plans for the public storm drainage system. In all cases where a waiver is granted, the property owner shall be required to strictly comply with storm water retention/detention requirements of Chapter 14.15 MMC.

The decision of the public works director or designee regarding such waivers shall be final, subject to appeal to the city council; provided, that in cases where a property owner has applied for development approval which is to be ruled upon by the city council itself, waivers referred to herein shall be determined by the city council after taking into consideration the recommendation of the city engineer. (Ord. 2245 § 3, 1999).

14.16.050 Extensions for full lot frontage.

Whenever a property owner desires to connect to the public storm drainage system, the property owner shall be required to extend the storm drainage lines for the full frontage of the lot which is being connected. If it can be shown that no future extensions beyond said lot will occur, a waiver may be obtained from the public works director or designee and the owner need only extend the line to the nearest point of connection on the lot. (Ord. 2245 § 3, 1999).

14.16.060 Application for connection, application fee and issuance of permit.

The owner of any property desiring to connect to the public storm drainage system shall apply for the connection on such forms as may be prepared and made available by the city public works department. The application shall include, at a minimum, a drawing showing the complete on-site drainage system which will be connected to the public storm drain. An application fee of $50.00 shall be paid to the city clerk. Upon approval of the application by the public works director or designee, a connection permit shall be issued which shall be valid for a period of six months thereafter. (Ord. 2245 § 3, 1999).

14.16.070 Inspections – Fees.

All connections to the public storm drainage system shall be inspected by the city engineer. In the event that a storm drainage line is to be deeded to the city, the party constructing the same shall pay the city an inspection fee of $0.25 per lineal foot. No line or facility shall be accepted by the city until all inspection fees have been paid and until the city engineer certifies that the same have been constructed in accordance with city specifications. (Ord. 2245 § 3, 1999).

14.16.090 Limitations on storm water quality.

No substance other than natural storm water drainage shall be discharged into the public storm drainage system. All water so discharged shall meet the water quality criteria and waste discharge limitations imposed by the city engineer and/or the Washington State Department of Ecology. (Ord. 2245 § 3, 1999).

14.16.100 Unlawful contamination of storm water – Penalty.

No person or business entity shall willfully or negligently discharge, or cause or allow to be discharged, any substance or pollutant into the public storm drainage system in violation of the water quality criteria and waste discharge limitations specified by the city engineer and/or the Washington State Department of Ecology. Any such discharge shall constitute a misdemeanor and shall be

punishable by imprisonment for a term not to exceed six months, or by a fine not to exceed $500.00, or both such fine and imprisonment. (Ord. 2245 § 3, 1999).

14.16.110 Unauthorized connections.

(1) It is unlawful for any person to make a connection to the public storm drainage system in violation of the provisions of this chapter. A willful violation shall constitute a misdemeanor, and shall be punishable by a fine not to exceed $500.00. Each day that a violation continues shall constitute a separate offense.

(2) Any person who shall make or cause to be made an unauthorized connection to the public storm drainage system shall be required to immediately bring the connection into conformity with all provisions of this chapter, and the application fee shall be doubled as a penalty assessment. (Ord. 2245 § 3, 1999).

14.16.120 Oversizing reimbursement.

In all cases the public works director or designee shall determine the size and depth of extensions to public storm drainage lines, whether they are on public or private property. The determination shall be consistent with the city's long-range plans for a regional storm drainage system. If a property owner/developer is required to install a storm drainage line with a diameter in excess of 18 inches, and if the purpose for such oversizing is to provide for future extension of the storm drainage line to adjacent properties and not merely to meet the needs of the property responsible for constructing the line, the city shall reimburse the property owner/developer for the difference in material costs incurred solely by reason of the oversizing requirement. No such reimbursement shall be made except upon the following: complete installation of the storm drainage line and approval of the same by the public works director or designee; a submittal of a bill of sale and a warranty for the storm drainage line to the city; certification of the oversizing costs, with such verification from the material supplier and contractor as the public works director or designee may require; approval of the oversizing costs by the public works director or designee; and approval of the reimbursement by the city council. (Ord. 2245 § 3, 1999).

14.16.130 Recovery contracts.

At the option of the city council, any party having constructed public storm drainage lines, facilities or appurtenances, at its own cost, may be allowed to enter into a recovery contract with the city providing for partial reimbursement to such party, or its assignee, for the costs of such construction, including the costs of engineering and design work, and all costs of labor and materials reasonably incurred. Such contracts shall be governed by the following provisions:

(1) Within 60 days after a storm drainage line or facility is accepted by the city and a bill of sale/warranty is filed with respect to the same, the proponent of the recovery contract shall submit a request for the same, using a form supplied by the city, together with supporting documentation showing all costs incurred in the project.

(2) An assessment area shall be formulated based upon a determination by the city as to which parcels of real estate will be directly benefited by the line or facility.

(3) The reimbursement share of all property owners in the assessment area shall be a pro rata share of the total cost of the project, less any contributions paid by the city. Each reimbursement share shall be determined by using a method of cost apportionment which is based upon the benefit received by each property from the project. This will generally be prorated on a front footage basis for storm drainage lines. There shall be no reimbursement to the proponent for the share of the benefits which are allocated to its property.

(4) A preliminary determination of the area boundaries and assessments, along with a description of the property owners, rights and obligations, shall be forwarded by certified mail to the property owners of record within the proposed assessment area. If any property owner requests a hearing in writing within 20 days of mailing of the preliminary determination, a hearing shall be held before the city council, notice of which shall be given to all affected property owners. The city council's ruling shall be determinative and final.

(5) The contract, upon approval by the city council, shall be recorded in the records of the Snohomish County auditor within 30 days of such approval. The recorded contract shall constitute a lien against all real property within the assessment area which did not contribute to the original cost of the utility project.

(6) If, within a period of 15 years from the date the contract was recorded, any property within the assessment area applies for connection to the storm drainage line, or is developed or improved in such a manner as to use or impact the drainage facility, the lien for payment of the property's proportionate share shall become immediately due and payable to the city as a condition of receiving connection or development approval.

(7) All assessments collected by the city pursuant to a recovery contract shall be paid to the original proponent, its personal representative, successors or assigns, within 30 days after receipt by the city, less an administrative charge of $50.00 for each collection.

(8) At the termination of the 15-year recovery period, the lien shall continue, but all collections thereafter shall be for the benefit of the city and shall be deposited in the city's utility fund.

(9) Nothing in this section, nor any provision in a recovery contract, shall be construed as establishing the city as a public utility in areas not already connected to the city's utility system; nor shall this section, or any recovery contract, be construed as establishing express or implied rights for any property owner to connect to the city's utility system without first qualifying for such connection by compliance with all applicable city codes and ordinances. (Ord. 2245 § 3, 1999).

14.16.140 Damage to storm drainage lines or facilities – Penalties.

No person or business entity shall willfully or by abuse or neglect cause any damage to lines or facilities of the public storm drainage system. Such acts or omissions shall constitute a misdemeanor and shall be punishable by imprisonment for a term not to exceed six months, or by a fine not to exceed $500.00, or by both such fine and imprisonment. Further, if the city repairs or replaces the damaged property, the actual cost to the city for such repair or replacement, plus 10 percent, shall be assessed against the responsible party and shall be due and payable within 10 days of the date of written notice of the same. Delinquent bills may be collected by a civil action in the Marysville municipal court. If the city obtains judgment, it shall also be entitled to reimbursement for court costs and reasonable attorney's fees expended in the litigation. (Ord. 2245 § 3, 1999).

Chapter 14.17

PRIVATE STORM WATER DISPOSAL SYSTEMS

Sections:

14.17.010 Duty to maintain.
14.17.020 Minimum storm water facility maintenance standards.
14.17.030 Maintenance of drainage swales, biofiltration swales, and ditches.
14.17.040 Inspection by city.
14.17.050 Notification of owner.
14.17.060 Service of notice.
14.17.070 Failure to correct – City action.
14.17.080 Record of assessment.
14.17.090 Exemptions.
14.17.100 No special duty created.
14.17.110 Severability.

14.17.010 Duty to maintain.

It shall be the duty of the property owner to maintain, repair and renew, at his own expense, all private storm water disposal systems located on his property. Should private storm water facilities not be maintained in accordance with city standards, then the city may choose to perform the necessary maintenance and charge the property owner/association, or the city may condemn the property as a health and safety nuisance and assume ownership. (Ord. 2245 § 4, 1999).

14.17.020 Minimum storm water facility maintenance standards.

The following are the minimum standards for the maintenance of storm water facilities:

(1) It shall be the duty of the owner to maintain, repair and restore, at the owner's expense, all private storm water and drainage systems located on the owner's property. Maintenance shall be performed in accordance with the minimum requirements of this chapter and in accordance with any maintenance schedule adopted during the plan review process for constructing the facilities.

(2) No person shall cause or permit any drainage system located on the owner's property to be obstructed, filled, graded, or used for disposal of debris.

(3) Minimum requirements for the maintenance of storm water facilities shall include but not be limited to the following:

(a) Annual inspection, upon request of the public works director or designee. Response required within 90 days;

(b) Removing brush, vegetation, debris and other blockage;

(c) Removing sediment, silts, sands, and gravels;

(d) Removing oils, grease, tars and other pollutants;

(e) Repairing and replacing damaged facilities as required; and

(f) All other activities necessary to ensure the facilities are operating as designed.

(4) Disposal of waste from maintenance activities shall be conducted in accordance with Chapter 173-304 WAC, Minimum Functional Standards for Solid Waste Handling; guidelines published by the Washington State Department of Ecology for disposal of waste materials from storm water maintenance activities; and where appropriate, Chapter 173-303 WAC, Dangerous Waste Regulations. (Ord. 2245 § 4, 1999).

14.17.030 Maintenance of drainage swales, biofiltration swales, and ditches.

(1) Open drainage swales and ditches which are located on private property (and often located within public drainage easements) shall be cleaned, maintained and protected in continuous compliance with the standards and specifications of the city. Responsibility for such work shall be borne by the owner of the underlying property; provided, that the city shall bear such responsibility for regional drainage ditches and facilities, as determined by the director of the department of public works, if the same are publicly owned or within public easements which are accessible to city personnel. Any party may appeal a determination of the director in this regard to the city council, and the decision of the city council shall be final.

(2) Vegetated storm water facilities, such as grassed swales and biofilters, shall be inspected semi-annually and mowed and replanted as required by the public works director or designee. Clippings shall be removed and properly disposed of.

(3) No person shall cause or permit open drainage swales and ditches to be obstructed, filled, graded or used for disposal of debris.

(4) The city shall enforce the provisions of this section pursuant to the procedures specified in MMC 14.17.040 through 14.17.080.

(5) Upon receiving express approval from the director of the department of public works, a property owner may convert a drainage swale or ditch into an enclosed drainage system. Such work shall be performed in compliance with the standards and specifications of the city and shall be subject to inspection and approval by the department of public works. Culverts and drainage appurtenances installed by private owners shall be conveyed to the city, at no cost, by a bill of sale. (Ord. 2245 § 4, 1999).

14.17.040 Inspection by city.

(1) The public works director or designee is directed and authorized to develop an inspection program for storm water facilities in the city of Marysville. Persons or occupants of the site shall allow any authorized representative of the engineer access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, and record examinations.

(2) Inspection Schedule. The public works director or designee may establish a master inspection and maintenance schedule to inspect appropriate storm water facilities that are not owned by the city. Inspections shall be annual. Critical storm water facilities may require a more frequent inspection schedule.

(3) Inspection and Maintenance Records. As existing storm water facilities are encountered, they shall be added to the master inspection and maintenance schedule. Records of new storm water facilities shall include the following:

(a) As-built plans and locations.

(b) Findings of fact from any exemption granted by the local government.

(c) Operation and maintenance requirements and records of inspection, maintenance, actions and frequencies.

(d) Engineering reports, as appropriate. (Ord. 2245 § 4, 1999).

14.17.050 Notification of owner.

If a private storm water disposal system is found by the city to be in need of repair or maintenance, the public works director or designee shall so notify the property owner in writing, by using a notice containing a minimum of the following elements and being in substantially the following form:

NOTICE TO (REPAIR OR MAINTAIN)
PRIVATE STORM WATER DISPOSAL
SYSTEM LOCATED ON THE
FOLLOWING DESCRIBED PREMISES:

(Description)

YOU ARE HEREBY NOTIFIED and instructed to (repair or maintain) the private storm water disposal system located on

the above-described property, by performing the following acts: (Description)

Said work is to be completed within _____ days from and after the service of this notice. In case of your failure to comply with this notice, said work will be done by and under the authority of the City of Marysville, at the expense of said property, and the cost and expense thereof charged to you and become a lien upon said property in accordance with Chapter 14.17 of the Marysville Municipal Code. That following completion of the work by the city of Marysville, if necessary, a report shall be made to the City Council at its regular meeting to be held at City Hall in the City of Marysville on the ____ day of _____, 19__ at the hour of 8:00 p.m. on said date, and an assessment shall be proposed showing double the cost of the repairs or maintenance done on the private storm water disposal system on your property, and thereupon the Council will hear any or all protests against said proposed assessment.

DATED this ____ day of _____, 19__.
Superintendent, Marysville Street Department

(Ord. 2245 § 4, 1999).

14.17.060 Service of notice.

Service of the notice provided for in MMC 14.17.050 shall be deemed sufficient if delivered in person to the owner of the property or his authorized agent; or by leaving a copy of such notice at the home of the owner or his authorized agent; or if the owner is a nonresident, by mailing a copy to his last known address, by certified mail; or if the owner of the property be unknown or if his address be unknown, then such notice shall be addressed to the general delivery office of the city wherein the improvement is to be made. (Ord. 2245 § 4, 1999).

14.17.070 Failure to correct – City action.

If any such property owner who has been so notified fails, for the period of time designated in such notice, to repair or maintain the private storm water disposal system in question, the public works director or designee shall proceed to cause such repairs or maintenance to be performed. Upon making the necessary repairs or maintenance, the superintendent shall report to the city council at its next regular meeting, or as soon thereafter as possible, an assessment roll showing the lot or parcel of land where the repair or maintenance was made, the cost of such repair or maintenance determined at twice the city's actual costs, and the name of the owner, if known. The city council will hear any or all protests against the proposed assessment at the time named in the notice. The council shall proceed at such hearing, or at an adjourned time or times, to assess the costs of such work against the property in accordance with the benefits derived therefrom, which charge shall become a lien upon the property and shall be collected by due process of law. The public works director or designee shall file with said assessment roll a copy of such notice, with proof of service of the same. (Ord. 2245 § 4, 1999).

14.17.080 Record of assessment.

The city clerk shall keep in his office a well-bound book in which he shall enter an abstract of all assessment rolls filed in accordance with this chapter, showing a description of the property, the name of the owner thereof, the total cost charged to each owner, and the date of the filing of the assessment roll, and when any property is cleared of the lien by payment, he shall note the fact upon such book, with the date of payment. (Ord. 2245 § 4, 1999).

14.17.090 Exemptions.

(1) Storm water facilities owned and maintained by the Washington State Department of Transportation in state highway rights-of-way which are regulated by and meet the requirements of Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, are exempted from the requirements of this chapter.

(2) Storm water facilities located in city of Marysville rights-of-way shall be maintained by the city and are exempted form the requirements of this chapter.

(3) Requests for exemption shall be filed in writing with the public works director or designee and shall adequately detail the basis for granting an exemption.

(4) The decision of the public works director or designee concerning a request for an exemption shall be made in writing for review of the city council.

(5) The decision of the public works director or designee, as to an exemption or denial thereof, may be appealed to the city council by filing written notice of appeal with the city clerk within 10 days of service of the public works director or designee's decision. (Ord. 2245 § 4, 1999).

14.17.100 No special duty created.

(1) It is the purpose of this chapter to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this chapter. No provision or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

(2) Nothing contained in this chapter is intended to be, nor shall be, construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or be a reason or a consequence of any inspection, notice, or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officers, agents, or employees. (Ord. 2245 § 4, 1999).

14.17.110 Severability.

If any section, subsection, sentence, clause, phrase, or word in this chapter 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 chapter. (Ord. 2245 § 4, 1999).

Chapter 14.18

STORM WATER DRAINAGE ASSESSMENTS IN CERTAIN DESIGNATED DRAINAGE BASINS

Sections:

14.18.010 Purpose.
14.18.020 Drainage basins defined.
14.18.030 Drainage basin facilities plans.
14.18.040 Inflation factor.
14.18.050 Assessments on properties outside of city limits.
14.18.060 Construction of regional drainage facilities.
14.18.070 Reimbursement rights.
14.18.080 Payment of drainage assessments.
14.18.090 Appeals.
14.18.100 Allen Creek drainage basin.
14.18.110 Marysville area regional storm water ponds and conveyance systems.

14.18.010 Purpose.

In areas of the city which are largely undeveloped, but where future growth is anticipated, it is possible to do advance planning for regional storm water drainage facilities on a basin-wide basis. In such cases the preferred location of such regional facilities may be predetermined, and the cost of constructing the same may be equitably assessed against private property owners within the affected drainage basin at the time new development projects are proposed. The concept of financing public works projects with mitigation assessments paid by developers who are causing the need for such projects is consistent with the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 18.20 MMC), and RCW 82.02.020. (Ord. 2245 § 5, 1999).

14.18.020 Drainage basins defined.

Drainage basins to which this chapter shall apply may be located in whole, or in part, within the Marysville city limits. They shall be identified and defined by the city engineer, and adopted by reference by resolution of the city council. (Ord. 2245 § 5, 1999).

14.18.030 Drainage basin facilities plans.

The public works director or designee, in conjunction with engineers of adjoining jurisdictions which may share drainage basins with the city of Marysville, shall develop a storm water drainage facilities plan for each identified drainage basin and any sub-basins located therein. Such plans

shall predetermine the location and size of any proposed retention/detention ponds of regional significance, and the location and size of all drainage pipes and channels of regional significance. The acquisition and construction cost of such facilities shall be estimated, and shall be apportioned by an assessment formula against all undeveloped property in the drainage basin which may be expected to contribute storm water to the regional system at the time such property is developed. The assessment formula shall be based upon an average impact analysis, but shall be subject to change on a case-by-case basis if an exceptional impact or lack of an impact is proven with respect to a particular project. The facilities plan for each basin shall be adopted by reference, by resolution of the city council. The assessment formula for each basin and sub-basin shall be adopted by ordinance of the city council and incorporated into this chapter. (Ord. 2245 § 5, 1999).

14.18.040 Inflation factor.

If certain regional drainage facilities are not constructed for a period of several years after the plan for the same is prepared and adopted, it is possible that the cost estimates of the public works director or designee, and the assessment formula based thereon, will require adjustment to reflect the inflation factor. If this is the case, the assessment formula may be amended by ordinance of the city council; provided, that no such amendment shall retroactively apply to any property which has already paid its assessments to the city. (Ord. 2245 § 5, 1999).

14.18.050 Assessments on properties outside of city limits.

Because the city has no jurisdiction to levy its assessments against properties which are located within a portion of a drainage basin which is outside of the city limits, the city shall attempt to enter into interlocal agreements with Snohomish County which require the county to pay the city an amount equivalent to the assessments for such properties. Such interlocal agreements shall be reciprocal, and in cases where the regional drainage facilities are located in a portion of a basin which is outside of the city limits, the city will agree to pay the county an amount equivalent to the assessments which it has collected from property owners within the city's portion of the basin. (Ord. 2245 § 5, 1999).

14.18.060 Construction of regional drainage facilities.

Regional drainage facilities identified in an adopted plan shall be constructed as follows:

(1) If such facilities are needed before the property on which they are to be located is ready for a private development project, the city shall purchase or otherwise acquire the necessary land or easements for the construction of such facilities. If the facilities are to be located on property which is then being proposed for a development project, dedication of the necessary land or easements shall be a required condition of the development project. The reasonable cost of acquisition and/or dedication of land and easements for regional drainage facilities shall be reimbursed as provided below.

(2) Construction of regional drainage facilities shall be scheduled by the public works director or designee to meet the needs of the sub-basin in question. Ordinarily such construction will be performed by the developer of the property on which the facilities are to be located as a condition of a development project. If, however, facilities are needed in a sub-basin before the property on which they are to be located is proposed for a development project, the city engineer may require developers of other properties within the sub-basin to construct the facilities as a condition of their projects. In the discretion of the city engineer, regional drainage facilities may be constructed, or upgraded, in stages by a series of parties as the sub-basin develops. Any party constructing such a facility shall be reimbursed for the reasonable costs thereof as provided below.

(3) Construction of regional drainage facilities shall be subject to all provisions of Chapters 14.15 and 14.16 MMC, except that provisions for reimbursement of the reasonable costs thereof shall be superseded by this chapter. (Ord. 2245 § 5, 1999).

14.18.070 Reimbursement rights.

A party who constructs regional drainage facilities required by an adopted storm water drainage plan shall be entitled to reimbursement of the reasonable costs thereof, including the reasonable value of any land on which a retention/detention pond is located, on the following terms and conditions:

(1) The facilities must have been installed and completed in compliance with requirements of Chapter 14.15 MMC and/or 14.16 MMC, and conveyed to the city of Marysville.

(2) The party shall certify in writing all acquisition, engineering and construction costs incurred and actually paid by him, and shall supply such verification as may be required by the public works director or designee.

(3) Reimbursement shall be allowed for the cost of oversizing regional drainage lines over 18 inches in diameter, and the cost of making comparably sized open channel improvements. Such reimbursement shall apply only to material costs, not labor, and shall have a maximum limit of $15.00 per foot. The public works director or designee may deny oversizing reimbursement in cases where the size of the lines or channel improvements is required by on-site development conditions, and not by regional considerations.

(4) The final reimbursement amount, as determined by the public works director or designee, shall be paid by the city to the party constructing the drainage facilities, or his assigns. Funds used for such payments shall be assessments collected by the city from property owners within the subject sub-basin during the period of five years prior to the date on which the facilities were accepted by the city, and during the period of 15 years thereafter. The city shall deduct an administrative charge of $50.00 each time a reimbursement check is issued. Under no circumstances shall the city be liable for reimbursements in amounts greater than the total assessments which it has collected from the subject sub-basin. If any assessments are collected by the city more than 15 years after the drainage facilities are constructed, or if any assessments have not been disbursed within said period of time, the same shall be kept by the city and deposited in the city's growth management fund.

(5) A party constructing all or any part of approved regional drainage facilities at its own cost, or dedicating land for the same, shall be granted a credit against drainage assessments which it owes with respect to property located in the subject sub-basin for the reasonable cost of such facilities and/or land, as determined by the city engineer. There shall be no right to reimbursement for the amount of said credit.

(6) If the city has acquired land and/or constructed drainage facilities at its own cost, it shall be entitled to reimbursement from the assessments collected from the subject sub-basin, as if it were a private developer, and such assessments shall be deposited in the city's growth management fund.

(7) In the event that more than one party has constructed regional drainage facilities in a single sub-basin, and each of said parties has been certified by the city engineer as being entitled to reimbursement from assessments collected by the city from property owners within that sub-basin, reimbursements shall be paid on the basis of chronological priority. The first drainage facilities which were approved by the city shall be reimbursed in full before any payments are made for subsequent facilities constructed in the same sub-basin. (Ord. 2245 § 5, 1999).

14.18.080 Payment of drainage assessments.

Drainage basin assessments in the amount specified in this chapter shall be paid by a property owner upon the first of the following events to occur:

(1) As a condition of final approval of a subdivision;

(2) As a condition of final approval of a short subdivision;

(3) As a condition of final approval of a binding site plan for any mobile home park, condominium, planned unit development, industrial park or shopping center;

(4) As a condition of any building, grading, paving or other development approval which impacts drainage runoff.

If, after paying an assessment, a parcel of property is rezoned, replatted or otherwise more intensively developed, the assessment shall be recalculated, giving the owner credit for assessments previously paid. (Ord. 2245 § 5, 1999).

14.18.090 Appeals.

Any party aggrieved by a decision of a city employee in the administration of this chapter may appeal said decision to the city council. The decision of the city council shall be final. (Ord. 2245 § 5, 1999).

14.18.100 Allen Creek drainage basin.

By Resolution No. 1100 adopted by the city council on July 11, 1983, a storm water drainage plan for the Allen Creek Drainage Basin was approved. Such plan contains sub-basins A through J. By Resolution No. 1159 adopted by the city council on March 11, 1985, an interlocal agreement with Snohomish County was approved relating to cost sharing for those sub-basins which are partly in the city and partly in the county. The following assessments are adopted for all properties within the city limits which are included in the Allen Creek Drainage Basin, and any of its sub-basins:

(1) Single-family residential property: $450.00 per single-family house or duplex.

(2) Agricultural property, parks and open space: $0.00, but $425.00 will be assessed for the total of all normal accessory buildings on the property, if any.

(3) Multiple-residential property: $2,835 per acre, but not less than $425.00.

(4) Business, commercial and industrial property: $3,035 per acre, but not less than $425.00. (Ord. 2245 § 5, 1999).

14.18.110 Marysville area regional storm water ponds and conveyance systems.

In addition to any other requirements of the Marysville Municipal Code, and in particular Chapters 14.16 and 14.18 MMC, the following policies, procedures and priorities are hereby established for connection to and use of all Marysville area regional storm water ponds and conveyance systems which are now or hereafter constructed by the city of Marysville:

(1) Regional storm water ponds and conveyance systems shall only be used to receive waters from commercial or industrial development on properties bearing the zoning designations of community business, general commercial, mixed use, light industrial or business park.

(2) Connection to and discharge into any regional storm water pond and conveyance system shall not be made, until the applicant has been issued a building permit for commercial or industrial development on a property bearing one or more of the zoning designations referenced in subsection (1) of this section.

(3) All regional storm water ponds and conveyance systems have a limited capacity. Acceptance of an application and discharge into the system shall be contingent upon available capacity. Applications shall be given priority based upon the date the initial deposit has been received as referenced in subsection (5) of this section by the city.

(4) A fee for connection to all regional storm water drainage facilities shall be established by the city engineer. Said fee shall be determined by calculating the total cost of the detention facility and dividing said cost by the cubic feet of as-built capacity. Total cost shall include land acquisition, design, construction, construction management, city staff overhead and environmental/ecological mitigation.

(5) All properties qualifying to connect to a regional storm water drainage facility shall pay a nonrefundable 10 percent deposit for the connection fee at the time of city receipt of an application for connection to the regional storm water facility following the effective date of the ordinance codified in this section. Said application shall describe the property to be served by the regional storm water facility, the proposed development, and the storage volume requested. An additional 10 percent refundable deposit shall be paid at the time of city receipt of any building permit application on the described property which must be within 120 days of the city receipt of the approved regional pond application or right to capacity within the storm water drainage facility shall be forfeited. The balance of the fee shall be paid at the time of issuance of the first building permit for the property to be served. If a building permit has not been issued within 120 days of the city receipt of a building permit application the right to capacity within the storm water drainage facility shall be forfeited. The city may grant a time extension of up to 120 days for building permit if substantial progress has been made by the applicant to complete design and construction plans to receive permit approval.

(6) Nontransferability. All rights conferred by this section shall inure solely to the development applicant and shall not be transferable, sold, assigned or in any way conveyed to any third party. Said rights shall not run with the land and shall inure solely to the benefit of the development applicant. (Ord. 2552 § 1, 2004).

Chapter 14.19

SURFACE WATER UTILITY

Sections:

14.19.010 Establishment of surface water utility.
14.19.015 Combination of utilities.
14.19.020 Interlocal agreement with Snohomish County.
14.19.030 Adoption of Snohomish County Code Title 25 by reference.
14.19.040 Surface water utility fund.
14.19.050 Schedule of surface water utility rates.

14.19.010 Establishment of surface water utility.

There is established a surface water utility with jurisdiction over all property within the city limits which is included within the Quilceda Creek and/or Allen Creek watersheds, as defined by Snohomish County. The function of this utility is to finance, acquire, construct, develop, improve, maintain, and operate public storm water control facilities for the purpose of preventing and solving drainage problems and improving the quality of surface water; provided, that any area included within the boundaries of Diking District No. 3 shall be excluded from the jurisdiction of this utility so as to avoid the overlapping of jurisdictions which are operating for the same purposes. (Ord. 2245 § 6, 1999).

14.19.015 Combination of utilities.

Being fully informed and advised, the city council finds it to be in the public interest that the surface water utility of the city be combined with the waterworks utility of the city. Pursuant to RCW 35.67.010 and 35.67.331, the surface water utility of the city, created and established by Ordinance No. 2245, is hereby combined with and made a part of the waterworks utility of the city. (Ord. 2509 § 1, 2004).

14.19.020 Interlocal agreement with Snohomish County.

Pursuant to RCW 36.89.050 the city has entered into an interlocal agreement with Snohomish County for inclusion of the city limits (excluding Diking District No. 3) within the county's Quilceda Creek/Allen Creek watershed management area (WMA). Said interlocal agreement authorizes the county to levy and collect surface water utility service charges against all properties within said WMA pursuant to Title 25 of the Snohomish County Code. Service charges collected by the county from properties within the city shall be disbursed to the city for use on surface water management activities. (Ord. 2245 § 6, 1999).

14.19.030 Adoption of Snohomish County Code Title 25 by reference.

The city adopts Title 25 of the Snohomish County Code ("Storm and Surface Water Management"), and any amendments to the same, by reference; provided, that said code is amended, as it applies to the city, in the following respects:

SCC 25.05.060 is amended to grant the city, its appointed and elected officials and employees, the same immunity from liability as is granted to the county.

SCC 25.10.140 is amended to state that the portion of the watershed management plan relating to properties within the city shall be jointly adopted by the city council and the county council.

SCC 25.20.050(1)(b) and (c) are amended to make reference to standards in Chapter 14.15 MMC instead of those in Title 24 of the Snohomish County Code. (Ord. 2245 § 6, 1999).

14.19.040 Surface water utility fund.

All service charges collected by the county and disbursed to the city shall be deposited by the city in its surface water utility fund, as established in Chapter 3.20 MMC. (Ord. 2245 § 6, 1999).

14.19.050 Schedule of surface water utility rates.

Schedule of Surface Water Utility Rates

	1/1/2004	1/1/2005	1/1/2006
Residential Customers – $/Month			
Residential – Single-Family	$6.00	$7.00	$8.00
Condo Units	$5.40	$6.30	$7.20
Other Customers – $/Month/Quarter Acre			
Very Light	$1.80	$2.10	$2.40
Light	$6.00	$7.00	$8.00
Moderate	$10.00	$11.70	$13.30
Heavy	$13.60	$15.90	$18.20
Very Heavy	$18.50	$21.60	$24.70

For the nonresidential customers, the rate is categorized by the impervious area. The categories are defined as follows:

Very Light	1% to 19% impervious area
Light	20% to 39% impervious area
Moderate	40% to 59% impervious area
Heavy	60% to 79% impervious area
Very Heavy	80% to 100% impervious area

Any land use classifications not specifically identified in relationship to the above rate categories will default to Title 25 of the Snohomish County Code. (Ord. 2493 § 1, 2003; Ord. 2486 § 1, 2003).

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Chapter 14.20

WASTEWATER PRETREATMENT

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Article I. General Provisions

14.20.010 Purpose and policy.

(1) This chapter sets forth uniform requirements for users of the publicly owned treatment works (POTW) for the city of Marysville, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. 1251 et seq.). The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

(b) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(c) To ensure that the quality of the wastewater treatment plant biosolids is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

(d) To protect POTW personnel who may be affected by wastewater, wastewater solids, and biosolids in the course of their employment and to protect the general public;

(e) To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW.

(2) This chapter shall apply to all users of the POTW. This chapter authorizes the issuance of wastewater discharge authorizations; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. 2072 § 1.1, 1996).

14.20.020 Administration.

Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to other city of Marysville personnel. (Ord. 2072 § 1.2, 1996).

14.20.030 Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

(1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(2) "Administrative penalty (fine)" means a punitive monetary charge unrelated to treatment cost, which is assessed by the director rather than a court.

(3) "Applicable pretreatment standards," for any specified pollutant, means Marysville prohibitive standards, Marysville specific pretreatment standards (local limits), state of Washington pretreatment standards, or EPA's categorical pretreatment standards (when effective), whichever standard is appropriate and most stringent.

(4) "Approval authority" means the state of Washington Department of Ecology.

(5) "Authorized representative of the user" means:

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operation facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

(c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her authorized designee;

(d) The individuals described in subsections (5)(a) through (c) may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(6) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(7) "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (milligrams per liter (mg/l)).

(8) "Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 – 471.

(9) "Categorical user" means a user covered by one of EPA's categorical pretreatment standards.

(10) "Chemical oxygen demand (COD)" means a measure of the oxygen consuming capacity of inorganic and organic matter present in wastewa-

ter. COD is expressed as the amount of oxygen consumed from a chemical oxidant in mg/l during a specific test.

(11) "City" means the city of Marysville, Washington.

(12) "Cooling water/noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

(13) "Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero (0.0) optical density.

(14) "Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

(15) "Director" means the director of the city of Marysville public works department, or his duly authorized representative.

(16) Discharge Authorization. See "Wastewater discharge authorization."

(17) "Domestic user (residential user)" means any person who contributes, causes, or allows the contribution of wastewater into the city POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day at 220 mg/l of BOD and TSS.

(18) "Environmental Protection Agency (EPA)" means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

(19) "Existing source," for a categorical industrial user, is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(20) "Existing user," for noncategorical users, is defined as any user which is discharging wastewater prior to the effective date of the ordinance codified in this chapter.

(21) "Fats, oils and grease (FOG)" means those components of wastewater amenable to measurement by the methods described in Standard Methods for the Examination of Water and Wastewater, 19th Edition, 1992, Section 5520. The term "fats, oils and grease" shall include polar and nonpolar fats, oils, and grease.

(22) "Grab sample" means a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

(23) "High strength waste" means any waters or wastewater having a concentration of BOD or total suspended solids in excess of 220 mg/l.

(24) "Indirect discharge" or "discharge" means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

(25) "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the city's NPDES authorization or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or authorizations issued thereunder: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

(26) "Local discharge limitations" means enforceable local standards developed by the city of Marysville. The standards are expressed in units of concentration as milligrams of pollutant per liter of solution.

(27) "Maximum allowable discharge limit" means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time.

(28) "Medical wastes" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(29) "New source" means:

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided, that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source, if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (29)(a)(ii) or (iii) but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun or caused to begin as part of a continuous on-site construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

(30) New User. A "new user" is not a "new source" and is defined as a user that applies to the city for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the city's collection system after the effective date of the ordinance codified in this chapter. Any person that buys an existing facility that is discharging nondomestic wastewater will be considered an "existing user" if no significant changes are made in the operation.

(31) "Pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES authorization (including an increase in the magnitude or duration of a violation).

(32) "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, or local governmental entities.

(33) "pH" means a measure of the acidity or alkalinity of a substance, expressed in standard units.

(34) "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor).

(35) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

(36) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(37) "Pretreatment standards" or "standards" means prohibited discharge standards, categorical pretreatment standards, and local limits established by the city (POTW).

(38) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in MMC 14.20.050.

(39) "Publicly owned treatment works (POTW)" means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the city. This definition includes all devices facilities, or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the city of Marysville wastewater treatment plant.

(40) "Recreational vehicle waste (RV waste)" means any domestic and/or residential wastes from holding tanks on private recreational vehicles, including travel trailers, pickup truck mounted campers and mobile domestic single-family recreational vehicles. This category does not include tour buses and public transportation vehicles. This category does not include wastes from vehicles which collect wastewater from holding tanks.

(41) "Septic tank waste" means any domestic and/or residential sewage from holding tanks such as vessels, chemical toilets, and septic tanks.

(42) "Sewage" means human excrement and gray water (household showers, dishwashing operations, etc.).

(43) "Sewer" means any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

(44) Shall, May. "Shall" is mandatory, "may" is permissive.

(45) "Significant industrial user (SIU)" means:

(a) A user subject to categorical pretreatment standards; or

(b) A user that:

(i) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling. and boiler blowdown wastewater); or

(ii) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(iii) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement;

(c) Upon a finding that a user meeting the criteria in subsection (45)(b) has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, determine that such user should not be considered a significant industrial user.

(46) "Slug load" means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in MMC 14.20.050 through 14.20.080 or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, or any discharge greater than or equal to five times the amount or concentration allowed by authorization or this chapter.

(47) "Standard Industrial Classification (SIC) code" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

(48) "State" means the state of Washington.

(49) "Storm water" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(50) "Total suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(51) "Toxic pollutant" means one of the pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act, or other pollutants as may be promulgated.

(52) "Treatment plant effluent" means the discharge from the POTW into waters of the United States.

(53) Treatment Works. See "Publicly owned treatment works (POTW)."

(54) "User" or "industrial user" means a source of indirect discharge. The source shall not include "domestic user" as defined herein.

(55) "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(56) "Wastewater discharge authorization" means an authorization or equivalent control document issued by the city to users discharging wastewater to the POTW. The authorization may contain appropriate pretreatment standards and requirements as set forth in this chapter.

(57) "Wastewater treatment plant" or "treatment plant" means that portion of the POTW which

is designed to provide treatment of municipal sewage and authorized industrial waste.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use. (Ord. 2072 § 1.3, 1996).

14.20.040 Abbreviations.

The following abbreviations shall have the designated meanings:

AKART	All known available and reasonable technology
ASPP	Accidental spill prevention plan
BMPs	Best management practices
BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
FOG	Fats, oils, and grease
gpd	gallons per day
l	liter
LEL	Lower explosive limit
mg	milligrams
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O and M	Operation and maintenance
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classifications
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
TSS	Total suspended solids
U.S.C.	United States Code

(Ord. 2072 § 1.4, 1996).

Article II. General Requirements

14.20.050 Prohibited discharge standards.

(1) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees centigrade) using the test methods specified in 40 CFR 261.21;

(b) Wastewater having a pH less than 5.5 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-quarter inch;

(d) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(e) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees centigrade) unless the director, upon the request of the user, approves alternate temperature limits. In no case shall wastewater having a temperature greater than 150 degrees Fahrenheit be discharged to the collection system;

(f) Petroleum oil, nonbiodegradable cutting oil, solvents, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(h) Trucked or hauled pollutants, including sanitary wastes and grease wastes, unless authorized by the director;

(i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES authorization. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonably established norm for aquatic life;

(k) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations;

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director;

(m) Any sludges, screenings, or other residues from the pretreatment of industrial or commercial wastes or from industrial or commercial processes, except as authorized by the director;

(n) Medical wastes, except as specifically authorized by the director;

(o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(p) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(q) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over 10 percent of the lower explosive limit (LEL) of the meter;

(r) Animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, styrofoam, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

(s) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;

(t) Any wastewater, which in the opinion of the director can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the director (except that no special waiver shall be given from categorical pretreatment standards);

(u) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater;

(v) Any hazardous or dangerous wastes as defined in rules published by the state of Washington (Chapter 173-303 WAC) and/or in EPA rules 40 CFR Part 261;

(w) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);

(x) Any slug load;

(y) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process;

(z) Fats, oils and grease in amounts that may cause obstructions or maintenance problems in the collection/conveyance system, or interference in the POTW;

(aa) Waste antifreeze (ethylene glycol, etc.);

(bb) Flow from an individual industrial facility in excess of 120,000 gpd without written permission of the director;

(cc) BOD or TSS from an individual industrial or commercial facility in excess of 750 mg/l measured at the point of connection with the city system.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Ord. 2072 § 2.1, 1996).

14.20.060 Federal categorical pretreatment standards.

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 – 471 are incorporated herein by reference as if set forth in full in this chapter. (Ord. 2072 § 2.2, 1996).

14.20.070 State requirements.

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or other applicable ordinances. (Ord. 2072 § 2.3, 1996).

14.20.080 Local discharge limitations.

(1) The following discharge limitations are established to prevent site-specific treatment plant and environmental problems. The local discharge limitations under this section are in force for all nondomestic users of the city's wastewater treat-

ment plant. Local discharge limitations for the city are established using the allowable headworks loading method in accordance with the following EPA documents:

(a) Guidance Manual on the Development and Implementation of Local Discharge Limitations under the Pretreatment Program (1987);

(b) Supplemental Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program (1991);

(c) PRELIM Version 4.0 Users Guide (1991).

(2) The following local discharge limitations are based on a technical analysis of the total loading of pollutants to the river watershed and the requirements of the Washington State Water Quality Standards (Chapter 173-201A WAC). Biosolids protection criteria in accordance with 40 CFR Part 503 final rule signed November 25, 1993. The technical report used in the derivation of the local discharge limitations as established herein are available from the director. Wastewater containing total recoverable metals in concentrations exceeding these local discharge limitations shall not be discharged to the city's collection system or treatment works.

LOCAL DISCHARGE LIMITATIONS
24-Hour Flow Proportional

Pollutant	Composite Sample
Arsenic	0.71 mg/l
Cadmium	0.70 mg/l
Chromium	1.47 mg/l
Copper	0.50 mg/l
Lead	0.52 mg/l
Mercury	0.10 mg/l
Nickel	1.48 mg/l
Zinc	1.67 mg/l
Cyanide	TBD
Silver	0.47 mg/l

TBD = To be determined upon completion of testing and analysis.

(3) Local discharge limitations apply at the point where wastewater is discharged to the collection system for all users. Local discharge limitations are in force at all monitoring facilities required under MMC 14.20.550. The director, at his option, may elect to have local discharge limitations apply after pretreatment and prior to mixing with other wastewater generated within an individual industrial facility.

(4) Local discharge limitations are expressed in units of milligrams of contaminant per liter of solution. The total mass or concentration of the constituent ion shall be limited under these maximum allowable discharge limitations without regard to oxidation state or chelation status. Where the user is subject to a categorical pretreatment standard or a specific discharge limitation under a state waste discharge authorization, the more stringent limit or pretreatment standard shall apply. (Ord. 2072 § 2.4, 1996).

14.20.090 Petroleum contaminated ground water.

(1) Persons seeking to discharge petroleum contaminated ground water to the collection system or treatment works shall obtain a state waste discharge permit for the proposed action in accordance with Chapter 173-216 WAC. The city reserves the right to impose more stringent requirements on the proposed discharge. Prior to discharging petroleum contaminated ground water to the collection system or treatment works, a written discharge authorization shall be obtained from the city of Marysville in accordance with Article III of this chapter.

(2) No petroleum contaminated ground water shall be discharged to the city's collection system or treatment plant except in accordance with a written discharge authorization from the director. Persons requesting authorization to discharge petroleum contaminated ground water to the POTW shall accompany the written request with a detailed engineering report signed by a professional engineer licensed in the state of Washington. The report shall detail the pretreatment technology proposed for the subject discharge. In addition, detailed information shall be submitted on the rate, duration and volume of flow proposed for treatment at the POTW. User charges for treatment of petroleum contaminated ground water shall be determined by the director. The director, at his option, may refuse to authorize discharge of any or all petroleum contaminated ground water. (Ord. 2072 § 2.5, 1996).

14.20.100 City's right of revision.

The city reserves the right to establish, by ordinance or in an amended application, more stringent standards or requirements on discharges to the POTW. (Ord. 2072 § 2.6, 1996).

14.20.110 Special agreement.

(1) The city may enter into agreements with significant industrial users to accept conventional pollutants compatible with the treatment system at concentrations greater than those typical of domes-

tic wastewater. Users with BOD or TSS levels higher than 220 mg/l must have a written agreement with the city before commencing discharge. Within such agreements, the city may establish terms of the user's discharge to the POTW, including maximum flow rates. The city may also establish fees to recover costs associated with treating such wastes and the cost of monitoring to verify operation in accordance with agreements.

(2) The adoption of fees shall be in accordance with MMC 14.20.800. In no case shall the discharge of conventional pollutants be allowed where the strength of such pollutants exceeds 750 mg/l BOD or 750 mg/l TSS.

(3) The city may also establish user group classifications for the purpose of establishing an equitable rate structure. User groupings will be based on wastewater strength measured by the conventional tests for BOD and TSS. Nondomestic users will be assigned to user groups in accordance with a standard schedule developed by the city based on typical waste strength for BOD and TSS. In no case shall a user group be established where BOD and/or TSS exceeds 750 mg/l.

(4) Nondomestic users may be assigned to user groups in accordance with the determination of the director. These nondomestic users may discharge wastewater to the treatment works without a written agreement. However, the user fees applicable to the assigned user group classification must be paid in accordance with the current rate structure adopted by the city. In no case shall the conventional waste strength of any user group classification exceed 750 mg/l BOD or 750 mg/l TSS.

(5) Users discharging or intending to discharge pollutants other than BOD and TSS, and claiming compatibility, must prove to the satisfaction of the director that such pollutants are compatible with the POTW. These cases will be handled on a case-by-case basis by the director. Written approval is required prior to introducing such wastes into the treatment works. Appropriate fees may apply in accordance with the determination of the director.

(6) In no case will a special agreement waive compliance with state or federal pretreatment requirements or standards, including categorical standards. (Ord. 2072 § 2.7, 1996).

14.20.120 Dilution.

User shall not increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. 2072 § 2.8, 1996).

14.20.130 General pretreatment facilities.

(1) Users shall provide all known, available, and reasonable methods of prevention, control, and treatment (AKART) as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the state, or the director, whichever is more stringent.

(2) Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense.

(3) In addition, the director may establish best management practices (BMPs) for particular groups of users. These BMPs may include, but are not limited to, types or methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, dragout prevention practices, good housekeeping, spill prevention practices, or other requirements as deemed necessary.

(4) When required by the director, an engineering report, including detailed plans showing the pretreatment facilities and operating procedures, shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter.

(5) Within 90 days after the completion of the wastewater pretreatment facility, the discharger shall furnish as built drawings and its operations and maintenance procedures. Any subsequent significant changes in the pretreatment facility or method of operation shall be reported to and approved by the director prior to the initiation of the changes.

(6) New sources, and new users determined to be significant industrial users (SIUs) must have pretreatment facilities installed and operating prior to discharge, if required. (Ord. 2072 § 2.9, 1996).

14.20.140 Deadline for compliance with applicable pretreatment requirements.

See MMC 14.20.390 for compliance schedule requirements.

(1) Compliance by existing sources (categorical users) covered by categorical pretreatment standards shall be as specified in the appropriate standard. The city shall establish a final compliance deadline date for any categorical user when the local limits for said user are more restrictive than EPA's categorical pretreatment standards. The city may establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards.

(2) New source dischargers, and "new users" that are determined to be significant industrial users (SIUs), are required to comply with applicable pretreatment standards within the shortest feasible time as determined by the director (not to exceed 90 days from the beginning of discharge). New sources, and "new users" that are determined to be significant industrial users (SIUs), shall install and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

(3) Any wastewater discharge authorization issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards.

(4) Any other existing user that is considered to be an SIU, or a categorical user that must comply with a more stringent local limit, which is in noncompliance with any local limits shall be provided with a compliance schedule to insure compliance within the shortest time feasible. A compliance schedule may be included in the subject user's discharge authorization. In no case shall compliance with the city's local discharge limitation exceed two years from the date of adoption of a said limit by the city.

(5) All existing commercial and industrial users not determined by the director to be significant industrial users (SIUs) shall have one year to comply with the requirements of this chapter. Users not considered as significant industrial users may request in writing an extension of the requirement for compliance. Such extensions will be authorized by the director only for good cause. An extension of the compliance deadline is valid only upon receiving written authorization from the director.

(6) A specific compliance schedule for pretreatment facilities for sources of fats, oils and grease is included in MMC 14.20.150.

(7) Contracts between the city of Marysville and any user or sewer utility customer that are in existence on the effective date of the ordinance codified in this chapter shall remain in full force and effect until the termination date of such contract. Each section and subsection of this chapter that is not in direct conflict with an existing contract shall become in effect immediately upon the effective date of the ordinance codified in this chapter. Application and enforcement of any section or subsection that is in direct conflict with existing contracts shall be deferred for the duration of the existing contract. Where specific requirements of this chapter are not specifically prohibited or addressed under the requirements of an existing contract, the presumption shall be that an existing contract allows imposition and enforcement of the specific requirements of this chapter. Where an existing contract is in conflict with any state or federal regulation or standard, the subject contract shall be renegotiated so that compliance with the state and federal requirements is achieved. Contracts not in conformance with this chapter or any state or federal regulation or standard shall not be renewed without modifications to bring such contracts into compliance therewith. (Ord. 2072 § 2.10, 1996).

14.20.150 Pretreatment facilities for fats, oils and grease (FOG).

(1) General.

(a) It shall be unlawful for any food service establishment or other person to discharge, or cause to be discharged, processing wastewater to the collection system or POTW which contains oils, greases, solids, or liquids sufficient to cause obstruction or otherwise interfere with the proper operations of the POTW or collection system.

(b) It shall also be unlawful for any food service establishment or other person to dispose of any grease waste or processing waste containing oils, greases, solids, or liquids and discharge said waste into any drainage piping, public or private sanitary sewer, storm drainage system, sufficient to interfere with the proper operation of that system, or to discharge said waste to any land, street, public way, river, stream, or other waterway.

(c) It shall further be unlawful for any person to allow liquid waste to accumulate on his property or in his possession which is injurious to public health or emits offensive odors.

(d) It shall be unlawful for any person to utilize any chemical emulsifying agent for the purpose of hindering or eliminating the interception of fats or grease prior to entering the city's wastewater collection system.

(e) Food service establishments and other facilities described in subsection (4) of this section discharging wastewater shall install, operate, clean, and maintain a sufficiently sized oil and grease, water and solids separator (herein called grease interceptor) necessary to achieve compliance with requirements set forth under this provision.

(f) (i) Oil or grease of petroleum or mineral origin shall not be discharged to the city's sewer system at a concentration in excess of 100 mg/l.

(ii) Fats, oil or grease of animal or vegetable origin shall not be discharged to the city's sewer system at a concentration in excess of 100 mg/l.

(g) The concentration of oils and grease shall be measured in samples taken from the sampling chamber following pretreatment in an approved grease interceptor in accordance with the requirements of this section. Oil and grease concentration shall be measured using the partition-gravimetric method or the partition-infrared method outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association.

(2) Waste Discharge Requirements.

(a) Waste discharge from fixtures and equipment in establishments that may contain grease, including but not limited to scullery sinks, pot and pan sinks, vent hood drains, dishwashing machines, soup kettles and floor drains located in areas where grease containing materials may exist, may be drained into the sanitary sewer only after such discharges are pretreated in an approved grease waste interceptor in accordance with this section.

(b) No sanitary wastes from toilets, urinals, or other similar fixtures may be discharged through any grease waste interceptor. All wastes shall enter the interceptor through the inlet pipe only. The wholesale shredding of food wastes into any fixture which discharges to a grease waste interceptor is prohibited.

(3) Location.

(a) Each grease interceptor shall be so installed and connected that it shall be at all times easily accessible for inspection, cleaning, and the removal of the intercepted grease. A grease interceptor may not be installed in any part of a building where food is handled. Location of the interceptor shall meet the approval of the director.

(b) Interceptors shall be placed as close as practical to the fixture(s) they serve.

(c) Each business establishment for which a grease interceptor is required shall have an interceptor which shall serve only that establishment.

(4) Pretreatment Required.

(a) Dischargers who operate newly constructed or remodeled restaurants, meat cutting facilities, cafes, lunch counters, bakeries, cafeterias, bars, or clubs; or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system shall have pretreatment facilities to prevent the discharge of fat waste, oil, or grease.

(b) Dischargers who operate automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having any type of washing facilities (including pressure washing and steam cleaning) or any other dischargers producing grit, sand, oils, lint, or other materials which have the potential of causing partial or complete obstruction of the building site sewer or other areas in the POTW shall install approved interceptors, oil/water separators, or tanks in accordance with specifications adopted by the city of Marysville such that excessive amounts of oil, sand and inert solids are effectively prevented from entering the POTW.

(5) Design.

(a) Grease interceptors shall be multiple compartment flotation chambers where grease floats to the water surface and is retained while the clear water underneath is discharged. The clear water discharged is subject to the discharge prohibitions of subsection (1) of this section.

(b) The grease interceptor shall be followed by a sampling compartment to allow for monitoring of discharges from the pretreatment unit. The geometry of the sampling compartment shall be in accordance with city of Marysville standard plan for grease interceptors available at the utility department. Interceptors shall have fittings designed for grease retention.

(c) There shall be an adequate number of manholes to provide access for cleaning and maintenance of all areas of the interceptors; a minimum of one manhole per 10 feet of interceptor length. Manhole covers shall be gas-tight in construction, and have a minimum opening dimension of 20 inches.

(6) Sizing Criteria.

(a) Sizing Formula. The size of the grease interceptor shall be determined by using the following formula: seating capacity or the number of meals served per peak hour, whichever is greater, x 6.0 gallons x 2.5 hours x storage factor = interceptor size in gallons.

Storage factor shall be as follows:
Facilities open less than 16 hours = 1
Facilities open for 16 hours or more = 2
Facilities open for 24 hours = 3

(b) In cases of certain fast food restaurants or establishments with the potential to discharge large quantities of oils, grease, solids or wastewaters, larger capacities of grease interceptors may be required. Prepackaged or manufactured grease interceptors may be approved by the director with proper engineering and application review.

(7) Source Control. All food establishments which deep fry, pan fry or otherwise generate liquid or semisolid restaurant grease shall maintain a container on-site for containment of liquid and semisolid grease wastes. This liquid or semisolid grease shall be transported to an approved rendering plant. In no case shall free liquid grease be disposed of directly into fixtures which are connected to the sewer system. Unused butter, margarine, or other solid grease products shall not be discharged to the sewer system through garbage disposals or other means. No exceptions to the prohibitions of this subsection are allowed for fixtures which discharge to the sewer system through an approved grease interceptor. Hauling and recycling of restaurant grease shall be accomplished at a facility holding a state rendering permit.

(8) Additives. The use of any additive, such as enzymes, chemicals, or bacteria, as a substitute for grease interceptors or the maintenance of grease interceptors is prohibited. The use of additives as a supplement to grease interceptors may be authorized by the director. The director will provide a specific written protocol for testing of additives proposed for use as supplements for grease interceptor or sewer line maintenance. Completion of the testing protocol to the satisfaction of the director at the expense of the grease generator is required prior to use of any additive. A written authorization from the director shall be obtained after completion of the testing protocol to verify that no objection is taken to the use of the proposed additive. In no case shall any additive which emulsifies fats, oils or grease be used. The city will provide a written test procedure for determination of emulsifying agents.

(9) Grease Interceptor Maintenance.

(a) Each facility required to install and maintain a grease waste interceptor under this chapter shall provide regular maintenance of said interceptor to the satisfaction of the director in an accordance with the requirements set forth in this chapter.

(b) Each person who removes grease waste from the grease interceptor shall, to the extent technically and mechanically possible, remove the entire content of the grease interceptor.

(i) Pumping. All grease interceptors shall be maintained by the user at the user's expense. Maintenance shall include the complete removal of all contents including floating materials, wastewater, and bottom sludges and solids. Decanting or discharging of removed waste back into the interceptor from which the waste was removed or any other grease interceptor for the purpose of reducing the volume to be hauled is prohibited.

(ii) Grease Removal and Grease Interceptor Pumping Frequency. All grease interceptors must be pumped out completely once every three months, or more frequently, as required by the director. Exception to this minimum frequency of pumping may be made with special written approval from the director for generators of small quantities of grease wastes. In no case shall the frequency of pumping be less than once every six months.

(iii) Disposal of Grease Interceptor Pumpage. All waste removed from each grease interceptor must be disposed of at a facility permitted by the health department in the county in which the disposal facility is located. Under no circumstances shall the pumpage be returned to any POTW or any sewer.

(iv) Maintenance Requirements. Each person who engages in grease waste handling shall maintain all vehicles, hoses, pumps, tanks, tools, and equipment associated with grease waste handling in good repair, free of leaks, and in a clean and sanitary condition. All hoses and valves on grease waste handling vehicles or tanks shall be tightly capped or plugged after each use to prevent leakage, dripping, spilling or other discharge of grease wastes and any public or private property.

(v) Maintenance Records. A log indicating each pumping of an interceptor for the previous 12 months shall be maintained by each food service establishment. This log shall include date, time, amount pumped, hauler and disposal site and shall be kept in a conspicuous location for inspection by health department or POTW personnel. The maintenance record log shall be recorded in the

format of the sample log included in subsection (10) of this section.

(vi) Maintenance Reporting. The information required in the maintenance log shall be submitted to the control authority annually. The reporting period is January 1st through December 31st of each year. The report shall be submitted within 30 days after the end of the reporting period.

(vii) Hazardous Material Prohibited. No person shall collect, transport, or handle any hazardous material in any vehicle used for grease waste handling.

(10) Maintenance Log Format. All pumpage collected by haulers from grease interceptors shall be verified by a maintenance log which confirms pumping, hauling and disposal of waste. Maintenance records and maintenance reporting requirements are specified in subsections (9)(b)(v) and (vi) of this section. Each person who engages in grease waste hauling shall complete the log each time such person services a grease interceptor. Such person shall provide a copy of the log to the generator of the grease waste. The log format shall be one of two types.

(a) Type I Maintenance Log Format. The Type I format shall be used when the transporter of the pumpage maintains and operates a grease waste treatment facility where such facility is permitted by the local department of Health in the county in which the facility is located. The local health department permit shall specifically cover activities associated with grease waste recycling and/or disposal activities.

The director will maintain a list of approved permitted grease waste receiving facilities. A permitted grease waste facility may be added to the director's list of approved facilities upon submittal of a proper department of health permit for the county in which the receiving facility is located. The Type I grease waste maintenance log format shall be used only by transporters on the director's list of approved permitted grease waste receiving facilities.

(b) Type II Maintenance Log Format. The Type II grease waste interceptor maintenance log format shall be used when the transporter of the pumpage does not maintain and operate a permitted grease waste treatment facility. The Type II format shall be used by all transporters not on the list of permitted and approved grease waste receiving facilities maintained by the director. Any transporter on the approved list who does not dispose of the hauled grease waste at its own permitted treatment facility shall use the Type II format.

Each log entry shall consist of a single sheet of eight and one-half-inch by 11-inch paper on which the required data is entered. The following format shall be used for each log entry:

Type I Format
GREASE INTERCEPTOR
MAINTENANCE LOG
TYPE I FORMAT
PREPARED FOR THE CITY
OF MARYSVILLE, WA

GENERATOR INFORMATION
NAME: (type facility name)
ADDRESS: (type facility address)
DATE: (handwritten entry)
VOLUME PUMPED: (handwritten entry)

TRANSPORTER INFORMATION
NAME: (type business name of transporter)
ADDRESS: (type transporter address)
VEHICLE DESCRIPTION AND CAPACITY: (handwritten entry)
ESTIMATED THICKNESS OF FLOATING GREASE: (handwritten entry)
ESTIMATED DEPTH OF BOTTOM SOLIDS: (handwritten entry)
COMMENTS: (provide four lines the full width of the page to allow driver to enter observations on the condition of the grease interceptor)
DRIVER NAME: (hand print driver name)
SIGNATURE: (driver signature)

Type II Format
GREASE INTERCEPTOR
MAINTENANCE LOG
TYPE II FORMAT
PREPARED FOR THE CITY
OF MARYSVILLE, WA

GENERATOR INFORMATION
NAME: (type facility name)
ADDRESS: (type facility address)
DATE: (handwritten entry)
VOLUME PUMPED: (handwritten entry)

TRANSPORTER INFORMATION
NAME: (type business name of transporter)
ADDRESS: (type transporter address)
VEHICLE DESCRIPTION AND CAPACITY: (handwritten entry)
ESTIMATED THICKNESS OF FLOATING GREASE: (handwritten entry)

ESTIMATED DEPTH OF BOTTOM SOLIDS: (handwritten entry)
COMMENTS: (provide four lines the full width of the page to allow driver to enter observations on the condition of the grease interceptor)
DRIVER NAME: (hand print driver name)
SIGNATURE: (driver signature)

RECEIVING FACILITY INFORMATION
FACILITY NAME: (type facility name)
ADDRESS: (type facility address)
FACILITY PERMIT NUMBER: (type Dept. of Health permit number)
DATE: (handwritten entry)
VOLUME OF WASTE: (handwritten entry)
CLASSIFICATION OF WASTE: (handwritten entry)
NAME: (print name of receiving facility employee authorized to document waste discharge)
SIGNATURE: (signature of above employee)

(11) Inspection and Entry.

(a) Any and all premises serviced by a grease interceptor and any and all records pertaining thereto shall be subject to inspection by the director for the purpose of determining compliance with this chapter.

(b) Any and all premises and vehicles used by any person performing grease waste handling any and all records of such person which relate to such person's grease waste handling activities shall be subject to inspection by the director for the purpose of determining compliance with this chapter.

(12) Existing Dischargers of Grease Wastes.

(a) All existing restaurants, cafes, bakeries, lunch counters, cafeterias, meat cutting facilities, bars, or clubs, or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system which do not have grease interceptors, or do not have adequately sized interceptors at the time of adoption of the ordinance codified in this chapter shall meet the requirement for interception of grease, oils and fats by installing an approved grease interceptor.

(b) Approved grease interceptors shall be installed within six months of the adoption of the ordinance codified in this chapter for existing facilities identified by the director as having a history of causing problems in the city's collection system. Facilities which must install approved grease interceptors within six months of ordinance adoption will be notified in writing by the director.

(c) Existing facilities which are not so notified by the director shall have 18 months from the time of adoption of the ordinance codified in this chapter to install approved grease interceptors in accordance with this chapter. Existing facilities which currently have grease interceptors of adequate size to meet the requirements of this chapter shall submit drawings of the existing installation along with calculations to demonstrate the adequacy of the existing installation. If the director determines that the existing grease interceptor meets the requirements of this chapter, the facility will be required to install only the sampling chamber as shown on the standard plan for grease interceptors. (Ord. 2072 § 2.11, 1996).

14.20.160 Additional pretreatment measures.

(1) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(2) When determined necessary by the director, each user discharging into the POTW shall install and maintain, on his property and at his expense, a suitable storage and flow-control facility to insure equalization of flow. The director may require the facility to be equipped with alarms and a rate of discharge controller, the regulation of which shall be determined by the director. A wastewater discharge authorization (DA) may be issued solely for flow equalization.

(3) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(4) When a new building is constructed without a tenant, and has any sewers which are intended to serve wastes other than sanitary or domestic waste, a multiple compartment interceptor approved by the director shall be installed. (Ord. 2072 § 2.12, 1996).

14.20.170 Accidental spill prevention program/slug load control plan.

Each discharger shall provide protection from accidental discharge of materials or substances pro-

hibited or limited under this chapter into the municipal sewer system or into waters of the state. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the director for review, and shall be approved by the director before construction of the facility. Each discharger, where requested by the director, shall complete its plan and submit same to the director within 90 days of being notified by the director. No discharger who discharges to the municipal sewer system after the aforesaid date shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the director. Review and approval of such plans and operating procedures by the director shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(1) Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description and itemization of stored chemicals;

(c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in MMC 14.20.050 through 14.20.080; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(2) Accidental Spill Prevention Plan (ASPP)/Slug Load Control Plan Format. All users required to develop and implement an ASPP/slug load plan shall provide the required plan in a specific format. The format to be used in the plan submittal is contained in Appendix 4 of the EPA Region X guidance manual entitled Guidance Manual for the Development of an Accidental Spill Prevention Program. The director will review each plan submittal for completeness. If the director identifies any deficiencies in the plan it will be returned with specific deficiencies identified. The plan shall be modified to address the deficiencies noted and resubmitted for approval. Resubmittal shall be accomplished within six weeks of the return of a deficient plan.

(3) Notification. Dischargers shall notify the director immediately upon the occurrence of a slug load or accidental discharge of substances prohibited by this chapter. Notification by telephone call shall be followed within five days by a written report containing the following information:

(a) Location of discharge;
(b) Date and time thereof;
(c) Type of waste;
(d) Concentration and volume;
(e) Corrective actions.

Any discharger who discharges a slug load of prohibited materials shall be liable for any expense, loss or damage to the municipal sewer system in addition to the amount of any fines imposed by the director on account thereof under the requirements of this chapter.

(4) Within five days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(5) Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures. (Ord. 2072 § 2.13, 1996).

14.20.180 Septic tank wastes.

No septic tank wastes shall be discharged to the sewer system or treatment plant. (Ord. 2072 § 2.14, 1996).

14.20.190 Monitoring of wastewater discharges.

(1) The director may require monitoring and periodic monitoring reports from any nondomestic discharger. Such monitoring will be performed at the expense of the discharger and in accordance

with a schedule specified by the director. Such monitoring shall be required where the director determines that there is a reasonable possibility that the user may not be in compliance with this chapter. Monitoring and reporting requirements for users who are not considered as significant industrial users shall conform with MMC 14.20.390(6), (7) and (8), and 14.20.470. Results of monitoring shall be forwarded to the director in accordance with the director's specifications.

(2) Recreational Vehicle (RV) Wastewater.

(a) Wastewater from individual recreational vehicles shall be discharged to the treatment works only at sites approved in writing by the director. RV wastewater may also be discharged to collection facilities designed for this use and owned and operated by the city of Marysville. The city may eliminate city-owned RV wastewater sites at any time for any reason.

(b) Commercial operators and all other persons seeking to develop, operate and own RV dump stations must obtain approval from the director in writing prior to construction and operation of such facilities. Persons operating RV dump sites at the time of adoption of the ordinance codified in this chapter shall make themselves known to the director within three months of adoption of the ordinance codified in this chapter and request permission to continue operation.

(c) The city may establish such fees as deemed necessary for operation of approved RV wastewater sites. (Ord. 2072 § 2.15, 1996).

14.20.200 Garbage disposal/garbage grinders.

The use of garbage disposal units or garbage grinders for the wholesale disposal of garbage, paper products or styrofoam products to the sewer system is prohibited. The installation or use of garbage grinders/garbage disposal units with rated motor power greater than three-quarter horsepower is prohibited. All garbage grinder/garbage disposal units with motors greater than three-quarter horsepower at the time of adoption of the ordinance codified in this chapter shall be removed within six months of adoption of the ordinance codified in this chapter. More than one grinder/disposal unit per commercial/industrial connection shall require the approval of the director. (Ord. 2072 § 2.16, 1996).

14.20.210 Dangerous waste regulations.

(1) Permit Requirements for Dangerous Waste Constituents. Users discharging a wastestream containing dangerous wastes as defined in Chapter 173-303 WAC (listed, characteristic, or criteria wastes) are required to comply with the following permit provisions:

(a) Obtain a written authorization to discharge the waste from the director, and either obtain specific authorization to discharge the waste in a state waste discharge permit issued by the Department of Ecology, or accurately describe the wastestream in a temporary permit obtained pursuant to RCW 90.48.165. The description shall include at least:

(i) The name of the dangerous waste as set forth in Chapter 173-303 WAC, and the dangerous waste number;

(ii) The mass of each constituent expected to be discharged;

(iii) The type of discharge (continuous, batch, or other).

(b) Compliance shall be obtained on the following schedule:

(i) Before discharge for new users;

(ii) Within 30 days after becoming aware of a discharge of dangerous wastes to the POTW for existing users; and

(iii) Within 90 days after final rules identifying additional dangerous wastes or new characteristics or criteria of dangerous waste are published for users discharging a newly listed dangerous waste.

(2) Requirements for Participation in Local Hazardous Waste Management Program. All commercial users of the treatment works owned and operated by the city of Marysville shall participate in the local hazardous waste management program for Snohomish County. All reasonable efforts shall be made to reduce and recycle waste liquids and small quantity wastes generated in the business environment. Disposal of small quantities of hazardous wastes to the sewer system and treatment works is prohibited. Small quantity generators (SQGs), as defined in Chapter 173-303 WAC, shall ensure delivery of all dangerous wastes to a permitted waste management facility, legitimate recycler, facility that beneficially uses or reuses it, a permitted municipal or industrial solid waste facility (with prior consent of operator) or in accordance with local moderate risk waste plans developed by Snohomish County. (Ord. 2072 § 2.17, 1996).

Article III. Wastewater Discharge Authorization Requirements

14.20.220 Required.

(1) No significant industrial user (SIU) shall discharge wastewater into the POTW without first

obtaining a wastewater discharge authorization from the director. Any violation of the terms and conditions of a wastewater discharge authorization shall be deemed a violation of this chapter and subjects the authorization to the sanctions set out in this chapter. Obtaining a wastewater discharge authorization does not relieve a user of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. The director at his sole discretion will determine which discharger is a significant industrial user.

(2) The director may require other users to obtain wastewater discharge authorizations (as necessary) to carry out the purposes of this chapter. (Ord. 2072 § 3, 1996).

14.20.230 Existing SIU.

Any SIU that was discharging wastewater into the POTW prior to the effective date of the ordinance codified in this chapter and that wishes to continue such discharges in the future shall, within 60 days after notification by the director, submit an authorization application to the city in accordance with MMC 14.20.260, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of notification except in accordance with a wastewater discharge authorization issued by the director. (Ord. 2072 § 3.1, 1996).

14.20.240 New source and "new user".

At least 90 days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and "new users" that are determined to be significant industrial users (SIU) shall apply for a wastewater discharge authorization and will be required to submit to the city at least the information listed in MMC 14.20.260(1) through (5). A new source, or "new user" that is determined to be a significant industrial user (SIU), cannot discharge without first receiving a wastewater discharge authorization from the city. New sources, and "new users" that are determined to be significant industrial users (SIUs), shall also be required to include in their application information on the method of pretreatment the user intends to use to meet applicable pretreatment standards. New sources, and "new users" that are determined to be significant industrial users (SIUs), shall give estimates of the information requested in MMC 14.20.260(4) and (5). (Ord. 2072 § 3.2, 1996).

14.20.250 Extrajurisdictional users.

Any existing user located beyond the city limits required to obtain a wastewater discharge authorization shall submit a wastewater discharge authorization application as outlined in MMC 14.20.230. New source, and "new users" that are determined by the director to be significant industrial users (SIUs), located beyond the city limits required to obtain a wastewater discharge authorization shall comply with MMC 14.20.240. (Ord. 2072 § 3.3, 1996).

14.20.260 Application contents.

All users required to obtain a wastewater discharge authorization must submit, at a minimum, the following information. The director shall approve a form to be used as an authorization application. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b).

(1) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners. The user shall provide the Standard Industrial Classification (SIC) number for the facility.

(2) Authorizations. The user shall submit a list of any environmental control authorizations held by or for the facility.

(3) Description of Operations. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such industrial user, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(4) Flow Measurement.

(a) Categorical User. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(i) Regulated or manufacturing process streams; and

(ii) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

(b) Noncategorical User. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(i) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the director.

(ii) The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(5) Measurements of Pollutants.

(a) Categorical User.

(i) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

(ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the categorical pretreatment standard or as required by the city of regulated pollutants in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Article V of this chapter.

(iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section.

(iv) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

(b) Noncategorical User.

(i) The user shall identify the applicable pretreatment standards for its wastewater discharge.

(ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the city) of regulated pollutants contained in MMC 14.20.050 through 14.20.080, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Article V of this chapter.

(iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section.

(iv) Where the director developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

(6) Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in MMC 14.20.270, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable pretreatment standards, the city will establish the shortest schedule by which the user will provide such additional pretreatment and/or O and M modifications. The schedule shall conform with the requirements of MMC 14.20.400. The completion date in this schedule shall not be later than the compliance date established pursuant to MMC 14.20.150.

(a) Where the user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this section, the information required by subsections (6) and (7) of this section shall pertain to the modified limits.

(b) If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by subsections (6) and (7) of this section, then a new report shall be submitted by the user within 60 days after the modified limit is approved.

(8) Any other information as may be deemed necessary by the director to evaluate the wastewater discharge authorization application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. (Ord. 2072 § 3.4, 1996).

14.20.270 Signatory and certification requirement.

All wastewater discharge authorization applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Ord. 2072 § 3.5, 1996).

14.20.280 Decisions.

The director will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge authorization application, the director will determine whether or not to issue a wastewater discharge authorization. The authorization shall be issued within 30 days of full evaluation and acceptance of the data furnished. The director may deny any application for a wastewater discharge authorization. (Ord. 2072 § 3.6, 1996).

14.20.290 Contents.

Wastewater discharge authorizations shall include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge authorizations must contain the following conditions:

(a) A statement that indicates wastewater discharge authorization duration, which in no event shall exceed five years;

(b) A statement that the wastewater discharge authorization is nontransferable without prior notification to and approval from the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge authorization;

(c) Applicable pretreatment standards and requirements, including any special requirements;

(d) Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(e) Requirement for immediate notification to the city where self-monitoring results indicate noncompliance;

(f) Requirement to report a bypass or upset of a pretreatment facility;

(g) Requirement for the SIU who reports noncompliance to repeat the sampling and analysis and submit results to the city within 30 days after becoming aware of the violation;

(h) A reference to this chapter concerning applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(2) Wastewater discharge authorizations may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(b) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(g) A statement that compliance with the wastewater discharge authorization does not relieve the applicant of responsibility for compliance with all applicable federal and state pretreat-

ment standards, including those which become effective during the term of the wastewater discharge authorization;

(h) Any special agreements the director chooses to continue or develop between the city and user;

(i) Other conditions as deemed appropriate by the director to ensure compliance with this chapter, and state and federal laws, rules, and regulations. (Ord. 2072 § 3.7, 1996).

14.20.300 Appeals.

Any person, including the user, may petition the city to reconsider the terms of a wastewater discharge authorization within 30 days of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge authorization provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge authorization.

(3) The effectiveness of the wastewater discharge authorization shall not be stayed pending the appeal.

(4) If the city fails to act within 60 days of the receipt of an appeal, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge authorization, not to issue a wastewater discharge authorization, or not to modify a wastewater discharge authorization shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge authorization decision must do so by filing a petition for review with the Snohomish County superior court within 30 days. (Ord. 2072 § 3.8, 1996).

14.20.310 Duration.

Wastewater discharge authorizations shall be issued for a specified time period, not to exceed five years. A wastewater discharge authorization may be issued for a period less than five years, at the discretion of the director. Each wastewater discharge authorization will indicate a specific date upon which it will expire. (Ord. 2072 § 3.9, 1996).

14.20.320 Modification.

(1) The director may modify the wastewater discharge authorization for good cause including, but not limited to, the following:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge authorization issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the authorized discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(e) Violation of any terms or conditions of the wastewater discharge authorization;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge authorization application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the wastewater discharge authorization; or

(i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(2) Such modifications of wastewater discharge authorizations shall occur at the time of renewal of said authorization except in unusual circumstances related to actions or regulations imposed by the Department of Ecology or other regulatory authorities. Operational disequilibrium events or other treatment plant operational problems shall also be grounds for modification of wastewater discharge authorization documents prior to the date of renewal. No vested right shall be created by the issuance of a waste discharge authorization under this chapter. (Ord. 2072 § 3.10, 1996).

14.20.330 Transfer.

Wastewater discharge authorizations may be reassigned or transferred to a new owner and/or operator only if the current owner gives at least 90 days' advance notice to the director and the director approves the wastewater discharge authorization transfer. The notice to the director must include a written certification by the new owner and/or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge authorization.

Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and be covered by the existing limits and requirements in the previous owner's authorization. Failure to provide advance notice of a transfer renders the wastewater discharge authorization voidable as of the date of facility transfer. (Ord. 2072 § 3.11, 1996).

14.20.340 Revocation.

(1) Wastewater discharge authorizations may be revoked for, but not limited to, the following reasons:

(a) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the city of changed conditions;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge authorization application;

(d) Falsifying self-monitoring reports;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the city timely access to the facility premises and records;

(g) Failure to meet discharge limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge authorization application;

(l) Failure to provide advance notice of the transfer of an authorized facility;

(m) If the city has to invoke its emergency provision as cited in MMC 14.20.640;

(n) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge authorization or this chapter;

(o) Failure to comply with all requirements of a written accidental spill prevention/slug loading plan.

(2) Wastewater discharge authorizations shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge authorizations issued to a particular user are void upon the issuance of a new wastewater discharge authorization to that user. (Ord. 2072 § 3.12, 1996).

14.20.350 Reissuance.

A user, required to have a wastewater discharge authorization, shall apply for wastewater discharge authorization reissuance by submitting a complete wastewater discharge authorization application, in accordance with MMC 14.20.260, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge authorization. A user, whose existing wastewater discharge authorization has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective wastewater discharge authorization until the city issues or denies the new wastewater discharge authorization. A user, whose existing wastewater discharge authorization has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge authorization. (Ord. 2072 § 3.13, 1996).

Article IV. Reporting Requirements

14.20.360 State waste discharge authorization.

Each user who holds a state waste discharge permit in compliance with the provisions of Chapter 90.48 RCW shall forward one copy of all subject correspondence to the director. Subject correspondence shall consist of all written communication between the user and the state of Washington Department of Ecology concerning the user's state waste discharge permit including reports, letters, submittals of applications, legal documents and agreements. The user shall also submit one copy of all documents received from the Department of Ecology pertaining to the user's state waste discharge permit. The permit in effect at the time of adoption of the ordinance codified in this chapter shall be forwarded to the director within 90 days of adoption of the ordinance codified in this chapter. All correspondence with Ecology thereafter shall be subject to the requirements of this section. (Ord. 2072 § 4.1, 1996).

14.20.370 Baseline monitoring reports.

(1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later), existing categorical users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the city a report which contains the information listed in MMC 14.20.260.

(2) At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in MMC 14.20.260.

(3) A new source shall also be required to submit an engineering report, explaining the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged. (Ord. 2072 § 4.2, 1996).

14.20.380 Final compliance report (initial compliance report).

(1) Within 90 days following the date for final compliance by the significant industrial user with applicable pretreatment standards and requirements set forth in this chapter, in a wastewater discharge authorization, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or "new users" considered by the city to fit the definition of SIU, the affected user shall submit to the city a report containing the information outlined in MMC 14.20.260(4) through (6).

(2) For users subject to equivalent mass or concentration limits established by the city in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. (Ord. 2072 § 4.3, 1996).

14.20.390 Periodic compliance report (monthly report).

(1) Any user that is required to have an industrial waste discharge authorization and performs self-monitoring shall submit to the city during the months of June and December, unless required on other dates or more frequently by the city, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge authorization. At a minimum, users shall sample their discharge at least twice per year.

(2) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge authorization) of the pollutants listed in the wastewater discharge authorization that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this chapter or the wastewater discharge authorization. Production data shall be reported if required by the wastewater discharge authorization. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the city or by this chapter, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

(3) Any user subject to equivalent mass or concentration limits established by the city or by unit production limits specified in the applicable categorical standards shall report production data as outlined in MMC 14.20.380(2).

(4) If the city calculated limits to factor out dilution flows or nonregulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.

(5) Flows shall be reported on the basis of actual measurement; provided, however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.

(6) Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Article V of this chapter.

(7) The city may require reporting by users that are not required to have an industrial wastewater discharge authorization if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

(8) The city may require self-monitoring by the user or perform the periodic compliance monitoring needed to prepare a periodic compliance report required under this section. If the city performs such periodic compliance monitoring, it will charge the user for such monitoring, based upon the costs incurred by the city for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the utility bills. The city is under no obligation to perform periodic compliance monitoring for a user. (Ord. 2072 § 4.4, 1996).

14.20.400 Compliance schedules for meeting applicable pretreatment standards.

Where required by the director, SIUs shall develop and submit a compliance schedule which brings the user into compliance with the requirements of its discharge authorization document.

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in subsection (1) of this section shall exceed nine months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports. (Ord. 2072 § 4.5, 1996).

14.20.410 Notification of significant production changes.

Any user operating under a wastewater discharge authorization incorporating equivalent mass or concentration limits shall notify the city within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge authorization. (Ord. 2072 § 4.6, 1996).

14.20.420 Hazardous waste notification.

(1) Any user that is discharging 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to the city, EPA Regional Waste Management Division Director, and the Hazardous Waste Division of the NWRO of the Washington State Department of Ecology. Any existing user exempt from this notification shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the city sewer system.

(2) Such notification shall include:

(a) The name of the hazardous waste as set forth in 40 CFR Part 261;

(b) The EPA hazardous waste number;

(c) The type of discharge (continuous, batch, or other);

(d) If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

(i) An identification of the hazardous constituents contained in the wastes,

(ii) An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month, and

(iii) An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance within 90 days of the effective date of such regulations.

(3) In the case of any notification made under this section, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. Discharging hazardous waste to the sewer system is prohibited as per MMC 14.20.050. (Ord. 2072 § 4.7, 1996).

14.20.430 Notice of potential problems, including accidental spills, slug loadings.

Any user shall notify the city immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in MMC 14.20.030. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any

user who discharges a "slug" (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed by the city or on the city under state or federal law. (Ord. 2072 § 4.8, 1996).

14.20.440 Noncompliance reporting.

If sampling performed by a user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within five days and submit the results of the repeat analysis to the city within 30 days after becoming aware of the violation, except the user is not required to resample if:

(1) The city performs sampling at the user at a frequency of at least once per month; or

(2) The city performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling. (Ord. 2072 § 4.9, 1996).

14.20.450 Notification of changed discharge.

All users shall promptly notify the city in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p). (Ord. 2072 § 4.10, 1996).

14.20.460 TTO reporting.

Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTOs) discharged into the sewer system must follow the categorical pretreatment standards for that industry. Those users must also meet the following requirements:

(1) Must sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);

(2) May submit a statement that no TTOs are used at the facility and/or develop a solvent management plan in lieu of continuously monitoring for TTO, if authorized by the director. If allowed to submit a statement or develop a solvent management plan, the user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the city. The director may require the development and implementation of a solvent management plan in addition to monitoring for TTO. (Ord. 2072 § 4.11, 1996).

14.20.470 Reports from users not required to secure discharge authorization documents.

All users not required to obtain a wastewater discharge authorization shall provide appropriate reports to the city as the director may require. (Ord. 2072 § 4.12, 1996).

14.20.480 Record keeping.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the director. (Ord. 2072 § 4.13, 1996).

14.20.490 Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. (Ord. 2072 § 4.14, 1996).

Article V. Sampling and Analytical Requirements

14.20.500 Sampling requirements for users.

(1) A minimum of four grab samples must be used for pH, cyanide, total phenols, sulfide, and volatile organics. The director will determine on a case-by-case basis whether the user will be able to composite the individual grab samples. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The city may waive flow-proportional composite sampling for

any user that demonstrates that flow-proportional is not feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(2) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the city and/or contained in the user's wastewater discharge authorization. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable categorical pretreatment standards. For other SIUs, for which the city has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

(3) All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed more frequently than what was required in its wastewater discharge authorization, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self monitoring report.

(4) Preserve samples in accordance with the specifications of Standard Methods for the Examination of Water and Wastewater, latest edition.

(5) Chain of custody documentation may be required by the director for any samples taken pursuant to this chapter. (Ord. 2072 § 5.1, 1996).

14.20.510 Analytical requirements.

(1) All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(2) All analyses performed to establish compliance and used in compliance reporting shall be performed by a laboratory accredited by the Washington State Department of Ecology, Quality Assurance Division in accordance with Chapter 173-50 WAC. Laboratories must be accredited for the analyses for which they are performing. (Ord. 2072 § 5.2, 1996).

14.20.520 City monitoring of user's wastewater.

The city will follow the same procedures as outlined in MMC 14.20.500 and 14.20.510. (Ord. 2072 § 5.3, 1996).

Article VI. Compliance Monitoring

14.20.530 Inspection and sampling.

Continued connection and use of the city's sewer system shall be contingent on the right of the city to inspect and sample all discharges into the system. The city shall have the right to enter the facilities of any user for the purpose of the enforcement of this chapter and to determine that any wastewater discharge authorization or order issued hereunder is being met and whether the user is complying with all requirements thereof. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The director shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the user.

(4) Unreasonable delays in allowing the director access to the user's premises shall be a violation of this chapter. (Ord. 2072 § 6.1, 1996).

14.20.540 Monitoring facilities.

(1) Each significant industrial user (SIU) shall provide and operate at its own expense a monitor-

ing facility to allow inspection, sampling, and flow measurements of each sewer discharge to the city. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the city may concur with the facility being constructed in the public street or sidewalk area; provided, that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The director, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, wastewater treatment system).

(2) A monitoring facility shall consist of a manhole or other structure in which a prefabricated palmer-bowlus or parshall flume shall be installed. The flume shall be of standard dimension and shall be manufactured of corrosion resistant materials.

(3) The flume shall be installed such that free-flowing conditions occur downstream of the throat of the flume structure. A permanent, digital, recording, totalizing, open channel flowmeter shall be permanently installed in a weatherproof enclosure. The flowmeter installation shall include an appropriate automatic system to measure the water level through the flume at the appropriate control point so that flow rate can be automatically calculated at selected intervals. Measured liquid level readings shall be converted into corresponding flow rates using internal conversion algorithms.

(4) The flowmeter shall be capable of initiating the operation of an attached sampler. The flowmeter signal shall be a five to 15 volt DC pulse or isolated contact closure of at least 25 milliseconds duration. Sample interval frequency shall be user selected.

(5) The monitoring facility shall be approved by the director in writing prior to construction. Existing monitoring facilities may be approved in lieu of new construction if approval of the installation, in writing, is provided by the director. Monitoring facilities shall include a secure area for placement of a portable sampler owned by the city.

(6) There shall be ample room in or near such sampling facility to allow accurate sampling, flow measurement and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

(7) The director may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy. Such monitoring equipment and activities shall be provided at the expense of the user.

(8) The requirements of this section shall apply to each significant industrial user. A monitoring facility shall also be installed by any nondomestic user at the direction of the director. Compliance with this section shall be in accordance with the requirements of MMC 14.20.150. (Ord. 2072 § 6.2, 1996).

14.20.550 Search warrants.

If the director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any wastewater discharge authorization or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director shall seek issuance of a search and/or seizure warrant from the municipal court, the district court, or the Snohomish County superior court. Such warrant shall be served at reasonable hours by the director and may be accomplished in the company of a uniformed police officer of the city. (Ord. 2072 § 6.3, 1996).

14.20.560 Vandalism.

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter. (Ord. 2072 § 6.4, 1996).

Article VII. Confidential Information

14.20.570 Trade secrets.

(1) Information and data on a user obtained from reports, surveys, wastewater discharge authorization applications, wastewater discharge authorizations, and monitoring programs, and from city inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information,

processes or methods of production entitled to protection as trade secrets under applicable state law.

(2) When requested and demonstrated by the user furnishing a report that such information should be held confidential, the city shall make reasonable efforts to protect the portions of a report which might disclose trade secrets or secret processes from inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report.

(3) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. 2072 § 7, 1996).

Article VIII. Administrative Enforcement Remedies

14.20.580 Notification of violation (notice of violation, NOV).

(1) When the director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. The director may select any means of service which is reasonable under the circumstances.

(2) Within seven days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (Ord. 2072 § 8.1, 1996).

14.20.590 Consent orders.

The director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to MMC 14.20.610 and 14.20.620 and shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user. (Ord. 2072 § 8.2, 1996).

14.20.600 Show cause hearing.

The director may order a user which has violated or continues to violate, any provision of this chapter, a wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. (Ord. 2072 § 8.3, 1996).

14.20.610 Compliance orders.

When the director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. Compliance orders may require users to refrain from certain activities, install additional pretreatment equipment, increase self-monitoring, use best management practices designed to minimize the amount of pollutants discharged to the sewer. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 2072 § 8.4, 1996).

14.20.620 Cease and desist orders.

(1) When the director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past vio-

lations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(2) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 2072 § 8.5, 1996).

14.20.630 Administrative fines.

(1) When the director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not less than $250.00 and not to exceed $10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Said administrative fines shall constitute a sewer service surcharge, and upon assessment, shall be subject to collection in the same manner as all other sewer utility rates, charges and penalties.

(2) Unless other arrangements have been made with, and authorized by the director, unpaid charges, fines, and penalties shall accrue thereafter at a rate of one percent per month. After 90 days, if charges, fines, and penalties have not been paid, the city may revoke the users discharge authorization.

(3) Users desiring to appeal and dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within 10 days of being notified of the fine. Where a request has merit, the director shall convene a hearing on the matter within seven days of receiving the request from the user. In the event the user's appeal is successful, any payments made shall be returned to the user. Affirmance or modification of an administrative fine by the public works director shall relate back to the original date of assessment.

The city shall recover the costs of preparing administrative enforcement actions, such as notices and orders, including the cost of additional inspections, sampling and analysis, and may add them to the fine.

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Users seeking judicial review of administrative fines must do so by filing a petition for review in the Snohomish County superior court within 30 days of the decision of the director. (Ord. 2072 § 8.6, 1996).

14.20.640 Emergency suspensions.

(1) The director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.

(2) The director may also immediately suspend a user's discharge (after informal notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in MMC 14.20.650 are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under MMC 14.20.600 and 14.20.650.

(3) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (Ord. 2072 § 8.7, 1996).

14.20.650 Termination of discharge (nonemergency).

(1) In addition to the provisions in MMC 14.12.340, any user that violates the following conditions is subject to discharge termination:

(a) Violation of wastewater discharge authorization conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(e) Violation of the pretreatment standards in Article II of this chapter.

(2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under MMC 14.20.690 why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 2072 § 8.8, 1996).

14.20.660 Appeal procedures.

(1) Appeals.

(a) Any user seeking to dispute a notice of violation, order, fine, or other action of the director may file an appeal.

(b) The appeal must be filed in writing and received by the director, in writing, within 10 days of the receipt of the disputed action. if the notice of appeal is not received by the director within the 10-day period, the right to an appeal is waived. The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken.

(c) Upon receipt of a timely appeal, the director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than 30 days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The director or his/her designee shall serve as the hearing examiner.

(2) Appeal Hearing.

(a) The hearing examiner may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The hearing examiner shall give effect to the rules of privilege recognized by law. The hearing examiner may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Factual issues shall be resolved by a preponderance of evidence.

(b) Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

(c) Every party shall have the right to cross examine witnesses who testify and shall have the right to submit rebuttal evidence; provided, that the hearing examiner may control the manner and extent of the cross examinations and rebuttal.

(d) The hearing examiner may take notice of judicially cognizable facts.

(3) Appeal Conclusion. At the conclusion of the hearing, the hearing examiner shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action. The final determination of the hearing examiner shall be in writing, and all parties shall be provided a copy of the final determination.

(4) Judicial Review of Appeal.

(a) Any party, including the city, the Washington State Department of Ecology, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the hearing examiner in the Snohomish County superior court; provided, that any petition for review shall be filed no later than 30 days after date of the final determination.

(b) Copies of the petition for review shall be served as in all civil actions.

(c) The filing of the petition shall not stay enforcement of the final determination except by order of the superior court and on posting of a bond to be determined by the court naming the city as beneficiary.

(d) The review shall be conducted by the court without a jury. The record shall be satisfied by a narrative report certified by the hearing examiner and no verbatim record of proceedings before the hearing examiner shall be required to be presented to the superior court.

(e) The court may affirm the final determination or remand the matter for further proceedings before the hearing examiner; or the court may reverse the final determination if the substantial rights of the petitioners may have been prejudiced because the final determination was:

(i) In violation of constitutional provisions; or

(ii) In excess of the authority or jurisdiction of the hearing examiner. (Ord. 2072 § 8.9, 1996).

Article IX. Judicial Enforcement Remedies

14.20.670 Injunctive relief.

(1) When the director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge authorization, or

order issued hereunder, or any other pretreatment standard or requirement, the director may petition the Snohomish County superior court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge authorization, order, or other requirement imposed by this chapter on activities of the user.

(2) The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. Injunctive relief shall be nonexclusive to other remedies available to the city. (Ord. 2072 § 9.1, 1996).

14.20.680 Civil penalties.

(1) A user which has violated or continues to violate any provision of this chapter, a wastewater discharge authorization, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of $10,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user. (Ord. 2072 § 9.2, 1996).

14.20.690 Criminal prosecution.

(1) A user who has violated any provision of this chapter, a wastewater discharge authorization, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $5,000 per violation, per day.

(2) A user which has introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $5,000. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) A user who knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge authorization, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a misdemeanor, and punished by a fine of $5,000 per violation per day.

(4) In addition, the user shall be subject to:

(a) The provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;

(b) The provisions of Section 309(c)(4) of the Clean Water Act, as amended, governing false statements, representation, or certification; and

(c) The provisions of Section 309(c)(6) of the Clean Water Act, regarding responsible corporate officers. (Ord. 2072 § 9.3, 1996).

14.20.700 Remedies nonexclusive.

The provisions in Article VIII through XI are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently. (Ord. 2072 § 9.4, 1996).

Article X. Supplemental Enforcement Action

14.20.710 Performance bonds.

The director may decline to issue or reissue a wastewater discharge authorization to any user which has failed to comply with any provision of this chapter, a previous wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined

by the director to be necessary to achieve consistent compliance. (Ord. 2072 § 10.1, 1996).

14.20.720 Financial assurances.

The director may decline to issue or reissue a wastewater discharge authorization to any user which has failed to comply with any provision of this chapter, a previous wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to meet pretreatment requirements, and/or restore or repair damage to the POTW caused by its discharge. (Ord. 2072 § 10.2, 1996).

14.20.730 Water supply severance.

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge authorization or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. (Ord. 2072 § 10.3, 1996).

14.20.740 Public nuisances.

A violation of any provision of this chapter, wastewater discharge authorization, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. (Ord. 2072 § 10.4, 1996).

14.20.750 Contractor listing.

Users which nave not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the city. (Ord. 2072 § 10.5, 1996).

14.20.760 Publication of violations and/or enforcement actions.

The director may publish violations and/or enforcement actions at any time where monetary fines may be inappropriate in gaining compliance, or in addition to monetary fines. Violations and/or enforcement actions may also be published when the director feels that public notice should be made or at other appropriate times. The cost of such publications will be recovered from the user. (Ord. 2072 § 10.6, 1996).

Article XI. Affirmative Defenses to Discharge Violations

14.20.770 Upset.

(1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of subsection (3) of this section are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(c) The user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

(i) A description of the indirect discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with applicable pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails. (Ord. 2072 § 11.1, 1996).

14.20.780 Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in MMC 14.20.050 (1) and (2)(c) through (g) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES authorization, and, in the case of interference, was in compliance with applicable sludge use or disposal requirements. (Ord. 2072 § 11.2, 1996).

14.20.790 Bypass.

(1) For the purposes of this section:

(a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4) of this section.

(3) (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least 10 days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the city of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) (a) Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The user submitted notices as required under subsection (3) of this section.

(b) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in subsection (4)(a) of this section. (Ord. 2072 § 11.3, 1996).

Article XII. Miscellaneous Provisions

14.20.800 Pretreatment charges and fees.

(1) The director may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program.

(2) These fees relate solely to the matters covered by this chapter and are separate from all other rates or charges for sewer service; provided, that the city shall collect said charges in the same manner as other sewer utility rates are collected, including but not limited to the sewer lien procedures provided under Chapter 35.67 RCW.

(3) Fees may include:

(a) Fees for wastewater discharge authorizations, including the cost of processing the authorization applications, public noticing, issuing and administering the authorization, and reviewing monitoring reports submitted by users;

(b) Fees for modifying or transferring authorizations;

(c) Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;

(d) Fees for reviewing and responding to accidental discharge procedures and construction;

(e) Fees for preparing and executing enforcement action;

(f) Fees for filing appeals;

(g) Fees for high strength waste and industrial process flow; and

(h) Other fees as the city may deem necessary to carry out the requirements contained herein.

(4) All fees or charges will be collected by direct billing. Unless the director has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this chapter. Users not paying fees within 60 days of the billing period will be subject to termination of service. The director may change existing or adopt new fees. (Ord. 2072 § 12.1, 1996).

14.20.810 Nonliability.

(1) It is the express purpose of the city of Marysville to establish an industrial pretreatment program in order to provide for and promote the health, safety and welfare of the general public. It is not the intent of this chapter to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms or requirements of this chapter.

(2) It is the specific intent of this chapter to place the obligation of complying with these regulations upon the applicant or discharger and no provision nor any term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, employees or agents, except as provided under the Act or other related statutes of the United States or the state of Washington.

(3) Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any tort liability on the part of the city or its officer, employees or agents for any injury or damage resulting from the failure of an applicant or discharger to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or inaction on the part of the city related in any manner to the implementation or the enforcement of this chapter by its officer, employees or agent. (Ord. 2072 § 12.4, 1996).

Chapter 14.32

UTILITY SERVICE AREA

Sections:

14.32.010 Utility Service Area established – Purposes.
14.32.020 Areas excluded from USA.
14.32.030 USA plan.
14.32.040 Criteria for utility connections within USA.
14.32.050 Implementation rules.
14.32.060 Administrative procedure.

14.32.010 Utility Service Area established – Purposes.

(1) There is established a Utility Service Area (USA) for the provision of sanitary sewer, the boundaries of which shall be adopted, and amended, by resolution of the city council and approved by the Snohomish County boundary review board. Except for certain pre-existing areas located outside the current urban growth area (UGA), which are served by special agreement, this boundary shall be consistent with the UGA as it now exists or is hereinafter amended. The procedures for adopting or amending the boundaries shall be the same as those required for adopting or amending a comprehensive plan of the city. A description of the boundaries shall be recorded in the records of the Snohomish County auditor.

The purposes of USA shall be to allow the city to establish long-range plans for the growth and control of its sanitary sewer utility system outside of the city limits but within the city's UGA, and to accurately forecast the demand for the same; to provide property owners and Snohomish County authorities with an indication of the city's long-range utility plans. USA shall not be construed as establishing the city as a "public utility" for properties located therein, nor shall it be construed as establishing express or implied rights for any property to connect to the city's sanitary sewer or water utility systems. All utility connections in rural areas are on the basis of special contracts with the city, and such contracts shall be granted or denied, as a governmental function of the city, pursuant to provisions of this chapter. USA shall not be construed as the exercise of the city's police power or utility jurisdiction over any properties not connected to the utility system. USA is nonexclusive, and does not affect the right of any other utility district or purveyor to provide services therein.

(2) In accordance with WAC 248-56-730, the city of Marysville in conjunction with adjacent water purveyors, county, and state agencies prepared and adopted "The Snohomish County Critical Water Supply Service Area Map." This map identifies the city's future service area boundary for water, commonly referred to as the CWSP (coordinated water system plan). Adjustments to this boundary shall be completed as defined in the "Agreement For Establishing Water Utility Service Area Boundaries." Establishment of such boundary shall not be construed as a commitment, either express or implied, to provide water service to any property therein. (Ord. 2375 § 7, 2001; Ord. 1242 § 1, 1982).

14.32.020 Areas excluded from USA.

The city shall not contract to provide or serve water or sewer utilities to any properties located outside of the city limits and outside of the adopted CWSP and/or USA boundaries respectively. (Ord. 2375 § 7, 2001; Ord. 1242 § 2, 1982).

14.32.030 USA plan.

The city shall adopt, by resolution, a plan for USA. The plan may be prepared as a whole or in successive parts. It shall consist of a map designating land use classifications and density limitations consistent with the city's comprehensive plan for properties within USA. Its purpose shall be to allow the city to anticipate and influence the orderly and coordinated development of a utility network, and urbanization, in USA, and to insure that the city's utility system retains adequate capacity to serve all properties within the city limits and to meet existing contractual obligations. In adopting, or amending, the USA plan, the city shall be guided by the criteria specified in MMC 14.32.040. Procedures used in adopting or amending the USA plan shall be the same as those required for adopting or amending a land use comprehensive plan of the city. The USA plan, and all amendments thereto, shall be filed with the Snohomish County auditor. (Ord. 2375 § 7, 2001; Ord. 1242 § 3, 1982).

14.32.040 Criteria for utility connections within USA.

The city is under no obligation to provide water and sewer utility services to any properties located outside of the city limits, with the exception of those already under contract with the city privately or through a utility local improvement district. However, any application for such services within the USA boundaries shall be reviewed and granted, or denied, in the city's discretion, pursuant to the following criteria:

(1) Priority shall be given to properties located within an established ULID and properties having some pre-existing contractual relationship with the city for utilities. A lien imposed against property by a recovery contract entered into between the city and a developer does not constitute a contract right which will grant a priority hereunder.

(2) A property applying for a utility connection must be suitable for ultimate annexation to the city based upon its proximity to the city, the long-range plans of the city to annex that area, the proposed use of the property, the potential urbanization which will result from the use, and the environmental and economic impact of such urbanization and the annexation of the property into the city. The owner of any property granted utility connections shall sign a petition to annex the property to the city, and may be required to obtain similar petitions from other property owners in the immediate vicinity so as to compose a logical extension of the city's boundaries. In the event that the property granted utility connections is not then contiguous to the city limits, or within two parcels of the city limits, the city may waive the requirement for an annexation petition and may allow the owner, instead, to sign a covenant agreeing to petition for and/or consent to an annexation of the property immediately upon the same becoming contiguous to the city limits or upon it being included within a larger annexation proposal. The covenant shall be binding upon the owner, its heirs, successors and assigns, and shall be construed as a covenant running with the land. It shall be recorded in the records of the Snohomish County auditor prior to connection of the property to the utility system; provided, however, the requirements of this subsection shall not apply to properties within another jurisdiction's city limits or urban growth area of another city in which the city of Marysville has by agreement with such city committed to serve water and sewer utilities.

(3) The existing or proposed use for the property shall be consistent with the then-current USA plan as adopted by the city. Utility services shall be conditioned upon continued compliance with the USA plan. If inconsistencies exist between the USA plan and Snohomish County's comprehensive plan, they shall be resolved pursuant to MMC 14.32.050(4).

(4) Properties located outside the city limits of Marysville seeking city sewer service shall also be required to connect to water service from the city. Any variation from this requirement shall be processed pursuant to MMC 14.01.040.

(5) Priority shall be given to proposals which will have the least adverse impact upon the existing utility system and its capacity to serve all properties within the city limits. An analysis shall be made of the remaining capacity of the city waterworks and sewer treatment lagoon and of the foreseeable demand for the same by properties within the city limits. The proposed project shall be analyzed with respect to its size and density of development, quantity of utility services demanded (average flow and peak periods), special treatment or hazards involved, and the potential for expansion or change of use after original connections are granted. No connection shall be approved which is inconsistent with the long-range plans of the utility system, or which would jeopardize public health or safety or the environment.

(6) The cost of serving the property with city utilities should be compared with the projections for revenue to be derived therefrom. If major capital improvements are required to service the property, methods of financing the same must be analyzed in light of the city's other budgetary priorities.

(7) Priority shall be given to properties which are in close proximity to existing utility lines with adequate reserve capacity. Connections will be discouraged which will require lengthy extensions or which will open new areas for development and will create new demand for city utilities.

(8) City utilities will not be offered for properties which have other practical and feasible sources for such services.

(9) Utilities will not be granted where such service, and the city's regulation thereof, would create a conflict with another municipal jurisdiction or utility district. Except as otherwise provided by the terms of an agreement between the city of Marysville and another municipal utility purveyor, utilities will not be granted where annexation of the property would be legally impossible because of conflicting jurisdictions.

(10) There must be a finding that the extension of utilities to the property, and the urbanization of the property, will create no substantial adverse environmental or economic impact. (Ord. 2375 § 7, 2001; Ord 2095 §§ 1, 2, 1996; Ord. 1853 § 2, 1991; Ord. 1613, 1988; Ord. 1242 § 4, 1982).

14.32.050 Implementation rules.

To implement and interpret this chapter, the following rules shall apply:

(1) If a property applying for utility connections is located within a portion of USA for which there is no adopted USA plan, the application shall be processed simultaneously with a supplement to the USA plan. The city shall take no final action

upon any application until there is a duly adopted USA plan for the subject property.

(2) Annexations of properties connected to city utilities will not be on a piecemeal basis, but will follow the city's determination as to logical, contiguous urban service areas. Delay by the city in implementing an annexation petition or covenant shall not be construed as a waiver of the same.

(3) Utility service to properties within a ULID, or to other properties with pre-existing contractual commitments from the city, is contingent upon compliance with MMC 14.32.040(1) through (5). The remaining subsections of MMC 14.32.040 shall not apply to such properties.

(4) In the event that the USA plan is inconsistent with Snohomish County's comprehensive plan, the USA plan shall prevail for purposes of this chapter.

(5) Where a Snohomish County zoning classification allows a use of undeveloped property which is inconsistent with the USA plan, the USA plan shall prevail over the county zoning classification.

(6) Where Snohomish County zoning controls allow planned residential developments, and concepts of clustering and lot size averaging, development in conformance thereto shall be construed as being consistent with the USA plan if the overall density does not exceed that permitted by the USA plan.

(7) Duplexes shall not be granted utility services in a single-family residential planning area unless they are consistent with the density provisions of the city's comprehensive plan.

(8) The city maintains transmission mains for the purpose of transporting water, in bulk, from the city's wells to the distribution system. The city reserves the right to abandon such transmission mains, and all direct connections of individual properties thereto are subject to this condition. In the event of such abandonment, all property owners connected to the main shall have the right to privately repair and maintain the main, and appurtenances, as a means of obtaining water from any public or private source, on terms agreeable with the city.

(9) Utility service to any property within USA shall not be expanded to serve any abutting properties without express approval from the city. No implication that such approval will be granted shall arise from utility service to the subject property.

(10) Continued utility service to any property within USA shall be conditioned upon payment of all fees and charges, compliance with all rules and regulations of the city utility code, and continued conformity to the USA plan. A violation shall result in termination of utility service and, at the option of the city, termination of all future service rights for the subject property. (Ord. 2375 § 7, 2001; Ord. 1276, 1983; Ord. 1242 § 5, 1982).

14.32.060 Administrative procedure.

(1) Applications for Utility Connections. Owners of property within USA who desire to connect to city utilities may file an application for the same with the city engineer, or his designee, on forms provided by the city. All such applications shall be accompanied by the application fee required in MMC 14.07.005A and payment in full of all assessments required by city code, and by a fully executed annexation petition or covenant. No letter of utility availability shall be issued until such time that the city has reviewed a development proposal for consistency with the USA plan.

The city engineer, or his designee, shall determine whether applications are complete, and may require the submittal of additional documentation, including an environmental/economic impact statement, if necessary. Within 21 days of receiving a complete application, the city engineer, or his designee, shall either grant or deny the utility connection, or either issue or reject a utility availability commitment letter. The decision of the city engineer, or his designee, administrator shall be in writing and shall be mailed to the applicant at the address stated on the application form.

(2) Application Granted – Duration. If the connection is granted, the applicant shall have a period of 12 months to comply with all city codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's contract rights shall become void. If an availability letter relates to lots within a proposed formal plat, short plat, or binding site plan, the applicant shall have a period of two years to comply with all city codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's utility application shall become void.

(3) Application Denied – Appeal. If the connection is denied, or the application letter rejected, or if an applicant is aggrieved by conditions imposed by the city engineer, an appeal may be filed within 14 days of the date of the city engineer's decision. Such appeal shall be filed with the city engineer and shall be processed in accordance with the procedures for administrative appeals outlined in MMC Title 15. Appeals must be accompanied by the fee required in MMC 14.07.005A.

(4) Variances. The hearing examiner shall have authority to grant variances from any and all provi-

sions of this chapter, and from the adopted USA plan. Applications for such variances shall be filed, in writing, with the city engineer, together with a filing fee of $200.00. The applicant shall be given 10 days' notice of the date on which the hearing examiner shall consider the variance. The hearing examiner is authorized to issue such variances only if it is found that a literal enforcement of this chapter would cause practical difficulties or unnecessary hardships. No such variance shall be authorized unless the examiner finds that all of the following facts and conditions exist:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the subject property or as to the intended use thereof that do not apply generally to other properties in the same vicinity;

(b) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity;

(c) That the authorization of such variance will not be materially detrimental to the public interest, welfare or the environment;

(d) That the granting of such variance will not be inconsistent with the long-range plans of the city utility system, or jeopardize utility availability for properties within the city limits.

Provided, that the variance criteria in subsections (4)(a) and (4)(b) of this section shall not be required, and a variance may be granted solely on the basis of the criteria in subsections (4)(c) and (4)(d) of this section in the following limited cases: those applications where a variance from the USA boundary is needed to allow water service to a single-family residence; provided, that a city water line must be in reasonably close proximity to the residence, and there must be no alternative source of domestic water supply which is practical under the circumstances.

In authorizing a variance, the hearing examiner may attach thereto such conditions as deemed necessary to carry out the spirit and purposes of this chapter and to protect the long-range plans of the city utility system and the public interest. Each variance shall be considered on a case-by-case basis and shall not be construed as setting precedent for any subsequent application. A variance shall become void if the utility connection allowed has not been completed in accordance with the time schedule provided in subsection (2) of this section. The decision of the hearing examiner on a variance shall be final, and no similar application for the same property may be filed for a period of six months thereafter. Any party aggrieved by the decision of the hearing examiner on a variance shall have a right to file a petition under the Land Use Petition Act in the Snohomish County superior court; provided, that the application must be filed and served within the timeframes prescribed by Chapter 36.70C RCW.

(5) Extended Time for Connections. In the event that a utility connection approved pursuant to subsection (2) or (4) of this section cannot be completed within the time period specified therein, the applicant may be granted one or more extensions by the city engineer; provided, that an extension must be requested while connection rights are still valid, and shall only be granted for good cause shown and for the minimum period necessary to complete the connection; provided further, that the city engineer may impose a condition on any extension so as to require the applicant to immediately pay all capital improvement charges reasonably projected for the subject property (which payment shall be nonrefundable), and so as to require the applicant to immediately commence paying minimum service charges reasonably projected for the subject property (which payments shall be nonrefundable). Extensions provided for herein are privileges and not rights, and shall be granted or denied in the discretion of the city engineer. The decision of the city engineer shall be final. (Ord. 2375 § 7, 2001; Ord. 1431, 1985; Ord. 1267, 1982; Ord. 1242 § 6, 1982).

Title 15

DEVELOPMENT CODE ADMINISTRATION

Chapters:

15.01 Introduction
15.03 Administration
15.05 Consolidated Application Process
15.07 Public Notice Requirements
15.09 Review and Approval Process
15.11 Appeals
15.12 Development Fees
15.13 General Provisions

Chapter 15.01

INTRODUCTION

Sections:
15.01.010 Intent.
15.01.020 Rules of interpretation.
15.01.030 Definitions.

15.01.010 Intent.

The purpose of this title is to combine and consolidate the application, review, and approval processes for land development in the city of Marysville in a manner that is clear, concise, understandable and consistent with Chapter 36.70B RCW. It is further intended to comply with state guidelines for combining and expediting development review and integrating environmental review and land use development plans. Final decisions on development proposals shall be made within 120 days of the date of the letter of completeness except as provided in MMC 15.09.070. (Ord. 2202 § 2, 1998; Ord. 2079, 1996).

15.01.020 Rules of interpretation.

(1) For the purposes of the development code, all words used in the code shall have their normal and customary meanings, unless specifically defined otherwise in this code.

(2) Words used in the present tense include the future.

(3) The plural includes the singular and vice versa.

(4) The words "will" and "shall" are mandatory.

(5) The word "may" indicates that discretion is allowed.

(6) The word "used" includes designed, intended, or arranged to be used.

(7) The masculine gender includes the feminine and vice versa.

(8) Distances shall be measured on a horizontal plane unless otherwise specified.

(9) The word "building" includes a portion of a building or a portion of the lot on which it stands.

(10) The word "days" refers to calendar days. (Ord. 2202 § 2, 1998; Ord. 2079, 1996).

15.01.030 Definitions.

The following definitions shall apply to MMC Titles 15 through 20. For the purposes of administering this title, if any of these definitions conflict with those of other provisions of the Marysville Municipal Code, the definitions of this chapter shall control.

(1) "Adjacent property owners" means the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. In the case of a mortgage company or bank, the occupant of the site address shall also be included. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

(2) "Aggrieved person" means one whose proprietary, pecuniary or personal rights would be substantially affected by a particular action as determined by the hearing examiner.

(3) "Applicant" means any person or legal entity proposing a division of land.

(4) "City," for the purpose of this title, shall be the city of Marysville.

(5) "City standards" means the engineering design and development standards as published by the department of public works.

(6) "Comprehensive plan" means a document or series of documents adopted by city council that sets forth broad guidelines and policies for the development of the city.

(7) "Comprehensive plan amendment" means an amendment or change to the text or maps of the comprehensive plan.

(8) "Critical areas" means areas of environmental sensitivity, which include the following areas and ecosystems:

(a) Wetlands;

(b) Fish and wildlife habitat; and

(c) Geologically hazardous areas.

(9) "Development" means any land use permit or action regulated by MMC Titles 15 through 20 including but not limited to subdivisions, binding site plans, rezones, conditional use permits, building permits subject to SEPA, and variances.

(10) "Development code" means MMC Titles 15 through 20.

(11) "Director" means the city planner or designated representative.

(12) "Effective date" means the date a final decision becomes effective.

(13) "Final decision" means the final action by the director, hearing examiner, or city council.

(14) "MMC" means Marysville Municipal Code.

(15) "Hearing examiner" means the land use hearing examiner for the city.

(16) "Party of record," for each application/appeal, means:

(a) The applicant/appellant;

(b) All persons who have submitted written comments concerning the specific matter to the responsible city department and/or to the hearing body prior to the close of the hearing and have provided the city with a complete address;

(c) All persons who testified at the public hearing.

(17) "Planned action" means a significant development proposal as defined in RCW 43.21C.031 (SEPA) as amended.

(18) "Open record hearing" means a hearing conducted by the designated hearing officer or body which creates the city's official record through the submission of testimony and evidence, under procedures prescribed by this title. An open record hearing may be held as either a predecision hearing, a hearing in which a final decision is issued, or as an appeal of a final decision; however, no more than one open record hearing may be held on any proposed action.

(19) "RCW" means Revised Code of Washington.

(20) "Site plan, final" means a site plan reviewed and approved pursuant to MMC Titles 15 through 20 containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Snohomish County auditor for recording. (Ord. 2202 § 2, 1998; Ord. 2079, 1996).

Chapter 15.03

ADMINISTRATION

Sections:

15.03.010 Roles and responsibilities.
15.03.020 Planning director.
15.03.030 City council.
15.03.040 Planning commission.
15.03.050 Hearing examiner.
15.03.060 Building code board of appeals.

15.03.010 Roles and responsibilities.

(1) The regulation of land development is a cooperative activity including many different elected and appointed boards and city staff. The specific responsibilities of these bodies is set forth below.

(2) An applicant is expected to read and understand the city development code and be prepared to fulfill the obligations placed on the applicant by MMC Titles 15 through 20. (Ord. 2202 § 3, 1998; Ord. 2079, 1996).

15.03.020 Planning director.

The director or designee shall review and act on the following:

(1) Authority. The director is responsible for the administration of MMC Titles 15 through 20;

(2) Administrative Interpretation. Upon request or as determined necessary, the director shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within 30 days of said request. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation;

(3) Administrative Approvals. Administrative approvals set forth in MMC 15.09.010, 15.09.020 and 15.09.030;

(4) Short plats;

(5) Shoreline permits for substantial development;

(6) SEPA (State Environmental Policy Act) determinations;

(7) Site plan with commercial, industrial, institutional (e.g., church, school) or multiple-family building permit;

(8) Site plan with administrative conditional use permit;

(9) Master plan for properties under ownership or contract of applicant(s). (Ord. 2512 § 2, 2004; Ord. 2202 § 3, 1998; Ord. 2079, 1996).

15.03.030 City council.

In addition to its legislative responsibility, the city council shall review and act on the following subjects:

(1) Approval of final plats;

(2) Approval of the comprehensive plan and comprehensive plan amendments;

(3) Approval of area-wide rezones, and confirmation by ordinance of site-specific rezones approved by the hearing examiner. (Ord. 2202 § 3, 1998; Ord. 2079, 1996).

15.03.040 Planning commission.

The planning commission shall review and make recommendations on the following applications and subjects:

(1) Amendments to the comprehensive plan;

(2) Amendments to the subdivision code, MMC Title 20;

(3) Amendments to the zoning code, MMC Title 19, or the official map;

(4) Amendments to the planning code, MMC Title 18;

(5) Master plan, initiated by the city or other governmental agency, for a neighborhood or assembly of parcels under private ownership or contract;

(6) Recommendations to the hearing examiner on master plans initiated by private property owners, which includes outside ownership or contract of the applicants;

(7) Other actions requested or remanded by the city council. (Ord. 2512 § 3, 2004; Ord. 2202 § 3, 1998; Ord. 2079, 1996).

15.03.050 Hearing examiner.

The hearing examiner shall review and act on the following applications and subjects:

(1) Applications for preliminary subdivisions;

(2) Appeals of administrative decisions on preliminary short plats;

(3) Site-specific rezones (with final approval by ordinance of the city council);

(4) Binding site plan approvals subject to public hearing review;

(5) Conditional use permits subject to public hearing review;

(6) Zoning code variances;

(7) Appeals of administrative decisions and interpretations relating to MMC Titles 4, 12, 18, 19, and 20;

(8) Appeals of SEPA determinations;

(9) Master plan, initiated by private property owners, including land outside ownership or contract of applicant(s);

(10) Such other matters as are delegated by ordinance of the city council. (Ord. 2512 § 4, 2004; Ord. 2202 § 3, 1998; Ord. 2079, 1996).

15.03.060 Building code board of appeals.

The board of appeals shall review and act on the following subjects:

(1) Appeals of decisions of the building official on the interpretation or application of the building or fire code;

(2) Disapproval of a permit for failure to meet the Uniform Building or Fire Codes.

The review criteria for the building code board of appeals are contained in MMC 16.04.035. (Ord. 2202 § 3, 1998; Ord. 2079, 1996).

Chapter 15.05

CONSOLIDATED APPLICATION PROCESS

Sections:

15.05.010 Application.
15.05.020 Preapplication meetings.
15.05.030 Content of applications.
15.05.040 Letter of completeness.
15.05.050 Technical review committee.
15.05.060 Environmental review.
15.05.070 Reimbursement in lieu of traffic engineering study.

15.05.010 Application.

(1) The city shall consolidate development application and review in order to integrate the development permit and environmental review process, while avoiding duplication of the review processes.

(2) All applications for development permits, variances and other city approvals under the development code shall be submitted on forms provided by the department of community development. All applications shall be acknowledged by the property owner. (Ord. 2079, 1996).

15.05.020 Preapplication meetings.

(1) Informal. Applicants for development are encouraged to participate in an informal meeting prior to the formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, city design standards, design alternatives, and required permits and approval process.

(2) Formal. Every person proposing a development, with exception of building permits, in the city shall attend a preapplication meeting. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the city shall invite all affected jurisdictions, agencies and/or special districts to the preapplication meeting. (Ord. 2079, 1996).

15.05.030 Content of applications.

(1) All applications for approval under MMC Titles 15 through 20 shall include the information specified in the applicable title. The director may require such additional information as reasonably necessary to fully and properly evaluate the proposal.

(2) The applicant shall apply for all permits identified in the preapplication meeting. (Ord. 2079, 1996).

15.05.040 Letter of completeness.

(1) Within 28 days of receiving a date stamped application, the city shall review the application and as set forth below provide applicants with a written determination that the application is complete or incomplete.

(2) A project application shall be declared complete only when it contains all of the following materials:

(a) A fully completed, signed, and acknowledged development application and all applicable review fees.

(b) A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act.

(c) The information specified for the desired project in the appropriate chapters of the Marysville Municipal Code and as identified in MMC 15.05.030.

(d) Any supplemental information or special studies identified by the director.

(3) For applications determined to be incomplete, the city shall identify, in writing, the specific requirements or information necessary to constitute a complete application. Upon submittal of the additional information, the city shall, within 14 days, issue a letter of completeness or identify what additional information is required. (Ord. 2079, 1996).

15.05.050 Technical review committee.

(1) Immediately following the issuance of a letter of completeness, the city shall schedule a meeting of the technical review committee (TRC). The TRC may be composed of representatives of all affected city departments, utility districts, the fire department, and any other entities or agencies with jurisdiction.

(2) The TRC shall review the development application for compliance with city plans and regulations, coordinate necessary permit reviews, and identify the development's environmental impacts. (Ord. 2079, 1996).

15.05.060 Environmental review.

(1) Developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with

the policies and procedures contained in MMC Title 18.

(2) SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

(a) Projects categorically exempt from SEPA;

(b) Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action. (Ord. 2079, 1996).

15.05.070 Reimbursement in lieu of traffic engineering study.

(1) In those cases where a developer would be required pursuant to any applicable city code or policy to provide a traffic engineering study as a condition of development, the city engineer or his designee may evaluate whether any traffic study previously completed at public expense adequately addresses the traffic issues that would be expected to be covered in a private, site-specific study. In such cases, the city engineer may waive a developer's site-specific traffic engineering study and instead authorize the payment of a fee to be paid in lieu of such study as reimbursement of a portion of the city's costs of an engineering study.

(2) The fee to be reimbursed to the city shall be administratively determined in the sole discretion of the city engineer and shall be based upon the following:

(a) The total cost of the city's study;

(b) The scope and area of the city's study as compared to the area that would have been required to be studied by the private developer;

(c) The degree to which the city's study is expected to be used in lieu of other site-specific private developer studies in the future;

(d) Such other and further factors as the city engineer deems relevant.

There shall be no appeal from the decision of the city engineer. The decision of the city engineer shall be issued in writing.

(3) In the event the private developer disagrees with the amount determined to be reimbursed to the city, the developer may appeal the administrative determination to the city's hearing examiner pursuant to Chapter 2.70 MMC. Said appeal shall be filed in writing with the city engineer not later than 14 calendar days from the issuance of the administrative determination. Failure to file an appeal within said time period shall be deemed as acceptance of the administrative determination. He shall conduct his own study at his own expense.

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(4) If it is determined by the city engineer or other appropriate authority that the city study needs to be updated with respect to a particular property or use, the developer shall do so at its own expense. (Ord. 2141 § 1, 1997).

Chapter 15.07

PUBLIC NOTICE REQUIREMENTS

Sections:

15.07.010 Notice of development application.
15.07.020 Notice of administrative approvals.
15.07.030 Notice of public hearing.
15.07.040 Notice of appeal hearing.
15.07.050 Notice of decision.

15.07.010 Notice of development application.

(1) Within 14 days of issuing a letter of completeness under Chapter 15.05 MMC, the city shall issue a notice of development application. The notice shall include but not be limited to the following:

(a) The name of the applicant;

(b) Date of application;

(c) The date of the letter of completeness;

(d) The location of the project;

(e) A project description;

(f) The requested approvals, actions, and/or required studies;

(g) A public comment period not less than 14 nor more than 30 days. The length of the comment period will be based on complexity of the project, as determined by the director;

(h) Identification of existing environmental documents;

(i) A city staff contact and phone number;

(j) The date, time, and place of a public hearing if one has been scheduled;

(k) A statement that the decision on the application will be made within 120 days of the date of the letter of completeness.

(2) The notice of development application shall be posted on the subject property, published once in a newspaper of general circulation and mailed to all property owners as shown on the records of the county assessor and to all street addresses of properties within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the development application.

(3) The notice of development application shall be issued prior to and is not a substitute for required notice of a public hearing.

(4) A notice of application is not required for the following actions, when they are categorically exempt from SEPA or environmental review has been completed:

(a) Application for building permits;

(b) Application for lot line adjustments;

(c) Application for administrative approvals. (Ord. 2525 § 1, 2004; Ord. 2202 § 4, 1998; Ord. 2079, 1996).

15.07.020 Notice of administrative approvals.

Notice of administrative approvals subject to notice under MMC 15.09.030 shall be made as follows:

(1) Notification of Preliminary Approval. The director shall notify the adjacent property owners of his intent to grant approval. Notification shall be made by mail only.

(2) The notice shall include:

(a) A description of the preliminary approval granted, including any conditions of approval;

(b) A place where further information may be obtained;

(c) A statement that final approval will be granted unless an appeal requesting a public hearing is filed with the city clerk within 15 days of the date of the notice. (Ord. 2202 § 4, 1998; Ord. 2079, 1996).

15.07.030 Notice of public hearing.

Notice of a public hearing for all development applications and all open record appeals shall be given as follows:

(1) Time of Notices. Except as otherwise required, public notification of meetings, hearings, and pending actions under MMC Titles 15 through 18 shall be made by:

(a) Publication at least 10 days before the date of a public meeting, hearing, or pending action in the official newspaper if one has been designated or a newspaper of general circulation in the city; and

(b) Mailing at least 10 days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the county assessor and to all street addresses of properties within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action. A mailing list and assessor's map showing properties within 300 feet shall be provided by the applicant; and

(c) Posting at least 10 days before the meeting, hearing, or pending action in three public places where ordinances are posted and at least one notice on the subject property.

(2) Content of Notice. The public notice shall include a general description of the proposed project, action to be taken, a nonlegal description of the property or a vicinity map or sketch, the time, date and place of the public hearing and the place where further information may be obtained.

(3) Continuations. If for any reason a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required. (Ord. 2202 § 4, 1998; Ord. 2079, 1996).

15.07.040 Notice of appeal hearing.

In addition to the posting and publication requirements of MMC 15.07.030, notice of appeal hearings shall be as follows:

(1) For an appeal of administrative approvals, notice shall be mailed to the applicant, appellant and adjacent property owners. (Ord. 2202 § 4, 1998; Ord. 2079, 1996).

15.07.050 Notice of decision.

A written notice for all final decisions shall be sent to the applicant and all parties of record. For development applications subject to hearing examiner review, the notice shall be the report issued by the hearing examiner. (Ord. 2202 § 4, 1998; Ord. 2079, 1996).

Chapter 15.09

REVIEW AND APPROVAL PROCESS*

Sections:

15.09.010 Application review.
15.09.020 Administrative approvals without notice.
15.09.030 Administrative approvals subject to notice.
15.09.040 Hearing examiner decisions.
15.09.050 Procedures for open record hearings.
15.09.060 Reconsideration.
15.09.070 Final decision.

*Prior legislation: Ordinance No. 2079.

15.09.010 Application review.

(1) A review process which consolidates different permits is the standard review process utilized in the city. A single report, as described in MMC 15.09.040(1), will be prepared for a development application. During a development application review, the city will not reconsider fundamental land use planning decisions which have been made in the adopted comprehensive plan or development regulations.

(2) A neighborhood meeting is required to be conducted by the applicant prior to submittal of an application for projects which, in the discretion of the director, have the potential to raise significant neighborhood issues. Public notice shall be given to the affected neighborhood consistent with MMC 15.07.030(1)(b).

(3) During project review, the city shall determine whether the project is consistent with the following items described in the applicable plans and regulations:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned residential developments and conditional uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas;

(c) Availability and adequacy of public facilities identified in the comprehensive plan; and

(d) Development standards. (Ord. 2202 § 5, 1998).

15.09.020 Administrative approvals without notice.

(1) The director may approve, approve with conditions, or deny the following without notice:

(a) Boundary line adjustments;

(b) Extension of time for approval;

(c) Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not affect:

(i) Overall project character,

(ii) Increase the number of lots, dwelling units, or density, or

(iii) Decrease the quality or amount of open space;

(d) Home occupations;

(e) Sensitive area management determinations made by the planning director pursuant to Chapter 19.24 MMC;

(f) Bed and breakfast permits;

(g) Accessory dwelling units;

(h) Site plan with commercial, industrial, institutional (e.g., church, school) or multiple-family building permit if permitted outright;

(i) Site plan with administrative conditional use permit;

(2) Director's decisions under this section shall be final on the date issued. (Ord. 2512 § 5, 2004; Ord. 2202 § 5, 1998).

15.09.030 Administrative approvals subject to notice.

(1) The director may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this section:

(a) Short subdivisions;

(b) Shoreline permits for substantial developments;

(c) Conditional use permits;

(d) Binding site plans;

(e) Master plan for properties under ownership or contract of applicant(s).

(2) Final Administrative Approvals. Preliminary approvals under this section shall become final subject to the following:

(a) If no appeal is submitted, the preliminary approval becomes final at the expiration of the 15-day notice period.

(b) If a written notice of appeal is received within the specified appeal periods, the matter will be referred to the hearing examiner for an open record public hearing. (Ord. 2512 § 6, 2004; Ord. 2202 § 5, 1998).

15.09.040 Hearing examiner decisions.

(1) Staff Report. The director or designee shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the development's consistency with the city's development code, adopted plans and regulations. The staff report shall include findings, conclusions and proposed recommendations for disposition of the development application. The report shall be prepared at least seven days prior to the public hearing.

(2) Hearing. The hearing examiner shall conduct an open record hearing on development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the city's development code, adopted plans and regulations. Notice of the hearing shall be in accordance with MMC 15.07.030.

(3) Required Findings. The hearing examiner shall not approve a proposed development without first making the following findings and conclusions:

(a) The development is consistent with the comprehensive plan and meets the requirements and intent of the Marysville Municipal Code.

(b) The development makes adequate provisions for open space, environmentally sensitive areas, drainage, streets and other public ways, transit stops, water supply, sanitary wastes, public utilities and infrastructure, parks and recreation facilities, playgrounds, sites for schools and school grounds.

(c) The development is beneficial to the public health, safety and welfare and is in the public interest.

(d) The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.

(e) The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

(4) Decision. Upon approving or disapproving a development proposal or action, the hearing examiner shall prepare and adopt a written decision setting forth its findings, conclusions, recommendations, and effective date of the decision, as set forth herein and in Chapter 2.70 MMC. (Ord. 2202 § 5, 1998).

15.09.050 Procedures for open record hearings.

Only one open record hearing is allowed per project. Open record hearings shall be conducted in accordance with city ordinance and the hearing examiner's rules of procedure and shall serve to create or supplement an evidentiary record upon which the decision shall be based. (Ord. 2202 § 5, 1998).

15.09.060 Reconsideration.

A party to a public hearing may seek reconsideration only of a final decision by filing a written request for reconsideration with the director within 14 days of the final written decision. The request shall comply with MMC 15.11.020(3). The examiner shall consider the request within seven days of filing the same. The request may be decided without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the hearing examiner may immediately revise and re-issue his or her decision. Reconsideration should be granted only when a legal error has occurred or a material factual issue has been overlooked that would change the previous decision. (Ord. 2202 § 5, 1998).

15.09.070 Final decision.

(1) Time. The final decision on a development proposal shall be made within 120 days from the date of the letter of completeness. Exceptions to this include:

(a) Amendments to the comprehensive plan or development code.

(b) Any time required to correct plans, perform studies or provide additional information; provided, that within 14 days of receiving the requested additional information, the director shall

determine whether the information is adequate to resume the project review.

(c) Substantial project revisions made or requested by an applicant, in which case the 120 days will be calculated from the time that the city determines the revised application to be complete.

(d) All time required for the preparation and review of an environmental impact statement.

(e) Projects involving the siting of an essential public facility.

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(f) An extension of time mutually agreed upon by the city and the applicant.

(g) All time required to obtain a variance.

(h) Any reconsideration by the hearing body.

(i) All time required for the administrative appeal of a determination of significance.

(2) Effective Date. The final decision of the council or hearing body shall be effective on the date stated in the decision, motion, resolution, or ordinance; provided, that the date from which appeal periods shall be calculated shall be the date the council or hearing body takes action on the motion, resolution, or ordinance. (Ord. 2202 § 5, 1998).

Chapter 15.11

APPEALS*

Sections:

15.11.010 Appeal process – General description.
15.11.020 Appeal of administrative interpretations and approvals.
15.11.030 Judicial appeal.

*Prior legislation: Ordinance No. 2079.

15.11.010 Appeal process – General description.

(1) Only a single open record hearing will be held on any development project permit application. Administrative decisions are appealable to the hearing examiner. The hearing examiner will conduct a public hearing in which public testimony and new information may be presented (open record hearing).

(2) Appeals of hearing examiner's decisions shall be made to superior court as provided in MMC 15.11.030, Judicial appeal. (Ord. 2202 § 6, 1998).

15.11.020 Appeal of administrative interpretations and approvals.

(1) Administrative interpretations and administrative approvals may be appealed by applicants or aggrieved adjacent property owners to the hearing examiner. Appeals shall be filed within 14 days of the notice of decision.

(2) Filing. Appeals of administrative interpretations and administrative approvals shall be filed in writing with the director within 14 calendar days following the date of the director's decision and shall be accompanied by the appropriate filing fee.

(3) Grounds for Appeal. The grounds for reconsideration of a hearing examiner decision or for filing an appeal of an administrative decision shall be limited to the following:

(a) The examiner/director exceeded his jurisdiction;

(b) The examiner/director failed to follow the applicable procedure in reaching his decision;

(c) The examiner/director committed an error of law or misinterpreted the applicable city regulation, ordinance or other state law or regulation;

(d) The examiner's/director's findings, conclusions and/or conditions are not supported by the record; and/or

(e) Newly discovered evidence alleged to be material to the examiner's decision which could not reasonably have been produced prior to the examiner's/director's decision.

Requests for reconsideration may use the additional grounds:

(f) Changes to the application proposed by the applicant in response to deficiencies identified in the decision.

(4) Contents of Appeal. The notice of appeal shall contain a concise statement identifying:

(a) A detailed statement of the grounds for appeal, making reference to each finding, conclusion, or condition which is alleged to contain error;

(b) A detailed statement of the facts upon which the appeal is based;

(c) The name and address of the appellant and his interest(s) in the matter;

(d) The appeals fee.

(5) Within 21 calendar days following timely filing of a complete appeal with the city, notice of the date, time, and place for hearing examiner consideration shall be mailed to the appellant, to the examiner, and to all other parties of record.

(6) All appeal proceedings shall be limited to those issues expressly raised in a timely written appeal.

(7) The director's decisions which have been timely appealed shall go to the hearing examiner for consideration within no sooner than 21 nor longer than 60 days from the date the appeal was filed. Said appeal shall be conducted as an open record hearing. Public comment and testimony shall be heard at such public hearing. (Ord. 2202 § 6, 1998).

15.11.030 Judicial appeal.

(1) Appeals from the final decision of the hearing examiner, or other city board or body involving MMC Titles 15 to 20 and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County superior court pursuant to the Land Use Petition Act, Chapter 36.70C RCW, within 21 days of the date the decision or action became final, unless another applicable appeal process or time period is established by state law or local ordinance.

(2) Notice of the appeal and any other pleadings required to be filed with the court shall be served as required by law within the applicable time period. This requirement is jurisdictional.

(3) The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The record of the proceedings shall be prepared by the city or such qualified person as it selects. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant. (Ord. 2202 § 6, 1998).

Chapter 15.12

DEVELOPMENT FEES

Sections:
15.12.010 General fee structure.

15.12.010 General fee structure.

The community development department is authorized to charge and collect the following fees:

Type of Activity	Fee
Land Use Review Fees	
Administrative Approval (bed and breakfast, accessory dwelling unit, or similar request)	$250.00
Annexation	
Under 10 acres	$250.00
Over 10 acres	$750.00
Appeals (quasi-judicial)	
For activity that requires a hearing for the primary project action	$250.00
For activity that would not have required a hearing for the primary action	$500.00
Appeals (administrative)	$250.00
Boundary Line Adjustment (up to two lots)	$500.00
Comprehensive Plan Amendment	
Map amendment with rezone (under 5 acres)	$2,500
Map amendment with rezone (over 5 acres)	$5,000
Text amendment	$500.00
Conditional Use Permit (administrative)	
Residential	$1,000 + $100.00 for each unit
Group residence or communication facility	$2,500
Commercial (including RV park, churches)	$3,500
Conditional Use Permit (public hearing)	Administrative fee + $1,500
Critical Areas Review	
Under 0.50 acre	$250.00
0.51 – 2 acres	$500.00 (+ peer review costs if applicable)
2.01 – 10 acres	$1,500 (+ peer review costs if applicable)
10.01 – 20 acres	$2,500 (+ peer review costs if applicable)
20.01 – 50 acres	$3,500 (+ peer review costs if applicable)
50.01+ acres	$5,000 (+ peer review costs if applicable)
EIS Preparation and Review	All direct, indirect costs and materials ($135.00/ hour for staff time)
Home Occupation (administrative approval)	$50.00
Lot Status Determination	
Readily verifiable with documents submitted by applicant	$50.00
Requires research and detailed document evaluation and confirmation	$200.00
Minor Modifications (to subdivision, site plan)	$350.00
Miscellaneous Reviews Not Otherwise Listed	$120.00/hour
Preapplication Review Fee	$350.00 (fee will be credited upon application submittal if filed within 90 days of the preapplication meeting)
Rezone	
Commercial (plus site plan charges if combined with project level review)	$2,500
PRD and mixed use overlay (plus site plan or subdivision charges)	$2,500
SEPA Checklist	
Residential (1 – 9 lots or dwelling units)	$350.00
Residential (10 – 20 lots or dwelling units)	$500.00
Residential (21 – 100 lots)	$1,000
Residential (greater than 100 lots or units)	$1,500
Commercial/Industrial (0 to 2 acres)	$350.00
Commercial/Industrial (2 to 20 acres)	$750.00
Commercial/Industrial (greater than 20 acres)	$1,500
Shoreline Permit (administrative review)	$1,000
Shoreline Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit with public hearing	$5,000
Site Plan Review (commercial, multifamily, PRD, master plan)	
Under 0.50 acre	$500.00 + $50.00/lot or unit

Type of Activity	**Fee**
0.51 – 2 acres	$750.00 + $50.00/lot or unit
2.01 – 10 acres	$2,000 + $50.00/lot or unit
10.01 – 20 acres	$5,000 + $45.00/lot or unit
20.01+ acres	$7,500 + $40.00/lot or unit
Site/Subdivision Plan Review (with utility availability for county projects)	
Under 0.50 acre	$500.00
0.51 – 2 acres	$750.00
2.01 – 10 acres	$2,000
10.01+ acres	$5,000
Subdivisions	
Preliminary binding site plan (commercial, industrial)	$5,000 + $100.00/lot or unit
Preliminary plat	$5,000 + $100.00/lot or unit
Preliminary short plat	$3,000 + $100.00/lot or unit
Final binding site plan, plat or short plat	$1,000 + $100.00/lot or unit
Subdivision Requests (time extension, amendment)	$200.00
Temporary Use Permit	$50.00
Variance (quasi-judicial decision – zoning, utility)	$500.00
Zoning Code Text Amendment	$500.00
Fast-Track Overtime (when authorized by both the department and applicant, for project reviews prioritized on overtime basis)	$165.00/hour for overtime worked, in addition to regular project review fees
Engineering Review and Construction Inspection Fees	
Engineering Construction Plan Review	
Residential (full plan sets – roads, drainage, utilities)	$225.00/lot or unit (for duplex or condominium projects), $2,000 minimum for first two reviews; $120.00/hour for each subsequent review
Residential (partial construction review – i.e., utilities, grading)	$100.00/lot or unit (for duplex or condominium projects), $1,000 minimum for first two reviews
Multiple Residential/Commercial/Industrial	$250.00 administrative base fee + $135.00/hour
Engineering, Design and Development Standards Modifications/Variances (administrative)	$250.00
Miscellaneous Reviews Not Otherwise Listed, and hourly rate from January 1, 2005 for projects initiated prior to 2005 (prior rates charged for hours worked prior to 2005)	$120.00/hour
Fast-Track Overtime (when authorized by both the department and applicant, for project reviews prioritized on overtime basis)	$165.00/hour for overtime worked, in addition to regular project review fees
Construction Inspection Fees	
Bond Administration Fee (maintenance)	$20.00/lot or unit (for duplex or condominium projects), minimum $250.00
Inspection for water, sewer, storm, street improvements associated with approved residential construction plans	$250.00/lot or unit (for duplex or condominium projects), $2,000 minimum
Inspection for utilities only (residential)	$100.00/lot or unit (for duplex or condominium projects), $1,000 minimum
Multiple residential/commercial/ industrial	$250.00 administrative base fee + $135.00/hour
Right-of-Way Permit	$250.00
Miscellaneous Reviews and Inspections Not Otherwise Listed, and hourly rate from January 2005 for projects initiated prior to 2005 (prior rates charged for hours worked prior to 2005)	$120.00/hour
Fast-Track Overtime (when authorized by both the department and applicant, for project reviews and inspections prioritized on overtime basis)	$165.00/hour for overtime worked, in addition to regular project inspection fees

(Ord. 2564 § 1, 2005; Ord. 2555 § 1, 2004).

Chapter 15.13

GENERAL PROVISIONS

Sections:
15.13.010 No special duty created.
15.13.020 Severability.
15.13.030 Savings.

15.13.010 No special duty created.

(1) It is the purpose of this title to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title. No provision or term used in this title is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this title shall be discretionary and not mandatory.

(2) Nothing contained in this title is intended to be nor shall be construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this title or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this title, or by reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement or this title, or by reason of any action of the city related in any manner to enforcement of this title by its officers, agents or employees. (Ord. 2079, 1996).

15.13.020 Severability.

If any provision of this title shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this title would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this title shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 2079, 1996).

15.13.030 Savings.

Nothing contained in this title shall be construed as abating any action now pending under or by virtue of any ordinance of the city herein repealed, or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of the ordinance codified in this title. (Ord. 2079, 1996).

Title 16

BUILDING[1]

Chapters:

16.04 Building Code
16.08 Plumbing Code
16.10 Energy Efficiency and Conservation Standards
16.16 *Repealed*
16.20 Dangerous Buildings
16.28 Mechanical Code
16.32 Floodplain Management
16.36 Building Specifications for the Handicapped
16.40 *Repealed*

1. Motion picture theater construction, requirements for fire, see MMC Title 9. Places of assembly, building requirements for fire, see MMC Title 9. Adoption of codes by reference, see RCW 35.21.180.

Chapter 16.04

BUILDING CODE[1]

Sections:

16.04.010 Adoption by reference, exclusions and exemptions.
16.04.020 Amendments – Subsequent.
16.04.030 Appendices adopted.
16.04.035 Section 204 amended – Board of appeals.
16.04.037 Section 502 Definitions amended – Story.
16.04.040 Washington State Energy Code – Nonresidential Energy Code and Ventilation and Indoor Air Quality Code adopted.
16.04.045 Sections 108 and 108.2 amended – IBC and IRC Fee Table 1-A and Table A-J-A adopted by reference.
16.04.050 Section 108.2 amended – Plan review fees and refunds.
16.04.060 Section 903.2.1 amended – Sprinkler systems – Group A Occupancies.
16.04.070 Section 903.2.2 amended – Fire-extinguishing systems – Group E Occupancies.
16.04.080 Section 903.2.3 amended – Sprinkler systems – Group F Occupancies.
16.04.090 Section 903.2.4 amended – Fire-extinguishing systems – Group H Occupancies.
16.04.100 Section 903.2.6 amended – Sprinkler systems – Group M Occupancies.
16.04.110 Section 903.2.7 amended – Sprinkler systems – Group R Occupancies.
16.04.120 Section 903.2.8 added – Sprinkler systems – Group S Occupancies.
16.04.130 Section 903.2.14 added – Area separation walls.
16.04.140 Section 1104.1.2 amended – Number of exits.
16.04.160 Requirements for moved buildings.

16.04.010 Adoption by reference, exclusions and exemptions.

(1) Certain documents, copies of which are on file in the office of the building official of the city of Marysville, being marked and designated as the "International Building Code and the International Residential Code, and the International Building Code Standards, 2003 Edition," published by the International Code Council, except for the provisions in subsections (3) and (4) of this section, are adopted as the building code of the city of Marysville for regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures in the city of Marysville, providing for the issuance of permits and the collection of fees therefor, and providing for penalties for the violation thereof. Each and all of the regulations, provisions, penalties, conditions and terms of said code are incorporated and made a part of this chapter as if fully set forth in this chapter.

(2) IBC and IRC Section 101.1 Title. These regulations shall be known as the building code of the city of Marysville, Washington, hereinafter referred to as "this code."

(3) Exclusions from Adoption by Reference. The following IBC 101.4 referenced codes are excluded and not adopted by reference as the building code for the city of Marysville:

101.4.1 Electrical
101.4.4 Plumbing
101.4.5 Property Maintenance
101.4.7 Energy
Chapter 34 Existing Buildings

(4) Work Exempt from Permits. For purposes of Marysville Municipal Code, both IBC and IRC Section 105.2, Work exempt from permit, are amended to read as follows:

> Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any laws or ordinance of this jurisdiction. Permits shall not be required for the following:
>
> Building:
> 1. One story detached accessory structure used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
> 2. Fences not over 6 feet high.
> 3. Oil derricks.
> 4. Retaining walls which are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
> 5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons and ratio of height to diameter or width does not exceed 2 to 1.
> 6. Sidewalks, platforms, decks and driveways not more than 30 inches above

1. Prior legislation: Ords. 478 and 528.

grade and not over any basement or story below and which are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to Group R-3 occupancy, as applicable in Section 101.2, which are less than 24 inches deep, do not exceed 5,000 gallons and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support of Group R-3, as applicable in Section 101.2, and Group U occupancies.
13. Moveable cases, counters and partitions not over 5 feet 9 inches in height.

(Ord. 2523 § 1, 2004; Ord. 2204 § 1, 1998; Ord. 2062 § 1, 1996; Ord. 1948 § 1, 1993; Ord. 1475 § 1, 1986; Ord. 1375 § 1, 1984; Ord. 1076 § 1, 1979; Ord. 852 § 1, 1975).

16.04.020 Amendments – Subsequent.

All amendments or supplements to the International Building and Residential Codes hereinafter adopted by the International Code Council and by the state of Washington as part of the State Building Code shall become a part of this code in all respects insofar as it is applied and enforced within the jurisdictional boundaries of the city of Marysville. (Ord. 2523 § 1, 2004; Ord. 852 § 2, 1975).

16.04.030 Appendices adopted.

Appendices I and J, except Section J101.2 to the International Building Code, 2003 Edition, and only Appendices A, B, C, G, H, J and K to the International Residential Code, 2003 Edition, are adopted, incorporated by this reference, and made a part of this chapter as if fully set forth in this chapter. (Ord. 2523 § 1, 2004; Ord. 2204 § 2, 1998; Ord. 2062 § 2, 1996; Ord. 1948 § 2, 1993; Ord. 1475 § 2, 1986; Ord. 1375 § 2, 1984; Ord. 1076 § 2, 1979; Ord. 852 § 3, 1975).

16.04.035 Section 204 amended – Board of appeals.

Section 204 of the International Building Code is amended by adding the following additional subsection thereto:

(c) Procedure. An appeal to the Board of Appeals must be filed in writing within fifteen (15) days after the order, decision or determination of the building official which is being challenged. The filing fee shall be one hundred fifty dollars. Within twenty (20) days after the filing of an appeal the Board of Appeals shall hold a hearing on the same and shall render its decision. Continuances shall be allowed only with the consent of the appellant. The decision of the Board of Appeals shall be final on the date that it is reduced to writing and sent to the appellant, subject to the right of the appellant to file an appeal to the Snohomish County Superior Court within fifteen (15) days thereafter.

(Ord. 2523 § 1, 2004; Ord. 1766, 1990).

16.04.037 Section 502 Definitions amended – Story.

Section 502 of the International Building Code is amended at that paragraph entitled "Story" by adding the following paragraph:

If any portion of a basement or usable under-floor space in a group R occupancy consisting of five (5) units or more is used or intended to be used for human habitation or assemblage of person for any purpose, such basement or usable space shall be considered a story.

(Ord. 2523 § 1, 2004; Ord. 2100 § 1, 1996).

16.04.040 Washington State Energy Code – Nonresidential Energy Code and Ventilation and Indoor Air Quality Code adopted.

The Washington State Energy Code, Chapters 51-11, 51-12 and 51-13 WAC, the Nonresidential Energy Code, Chapter 51-11 WAC, and the Ventilation and Indoor Air Quality Code, Chapter 51-13 WAC, are each adopted and incorporated into and made a part of this chapter by reference. (Ord. 2523 § 1, 2004; Ord. 2062 § 3, 1996).

16.04.045 Sections 108 and 108.2 amended – IBC and IRC Fee Table 1-A and Table A-J-A adopted by reference.

The schedule of fees adopted in Table 1-A titled "Building Permit Fees" and Table A-J-A titled "Grading Plan Review Fees and Grading Permit Fees" are hereby adopted. (Ord. 2523 § 1, 2004).

16.04.050 Section 108.2 amended – Plan review fees and refunds.

Section 108.2 of the International Residential Code is amended to read as follows:

> 1. When a plan or other data are required to be submitted by Section 108, a plan review fee shall be paid at the time of submitting plans and specifications for review. Except as provided below, said plan review fee shall be 65 percent (65%) of the building permit fee as shown in 2003 IBC-IRC Table 1-A Building Permit Fees.
>
> 2. Sections 108.5 and 108.6 amended – Refunds. The building official may authorize refunding of not more than 80 percent of the plan review or permit fee paid when no review or work has been done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 90 days after the date of the fee payment.

(Ord. 2523 § 1, 2004; Ord. 2204 § 3, 1998; Ord. 2062 § 4, 1996; Ord. 1974 § 1, 1993).

16.04.060 Section 903.2.1 amended – Sprinkler systems – Group A Occupancies.

Section 903.2.1 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.1 is enacted to be added to the building code reading as follows:

> Marysville Municipal Code Section 903.2.1 Group A Occupancies. An automatic sprinkler system shall be installed in all Group A and B Occupancies, other than those rooms used by the occupants for the consumption of alcoholic beverages, that have 10,000 square feet (929.03 m^2) or more of floor area.

(Ord. 2523 § 1, 2004; Ord. 2377 § 10, 2001).

16.04.070 Section 903.2.2 amended – Fire-extinguishing systems – Group E Occupancies.

Section 903.2.2 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.2 is enacted to be added to the building code reading as follows:

> Section 903.2.2 General. An automatic fire-extinguishing system shall be installed in all newly constructed buildings classified as Group E, Division 1 Occupancy, and an automatic fire-extinguishing system shall be installed in all newly constructed buildings classified as Group E, Division 2 and Group E, Division 3 that have 10,000 square feet (929.03 m^2) or more of floor area. A minimum water supply meeting the requirements of International Building Code Standard shall be required. The Fire Marshall may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.
>
> For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a 12-month period that exceeds 100% of the value of such building or structure shall be considered new construction.
>
> EXCEPTION: Portable school classrooms, provided:
> 1. Aggregate area of clusters of portable classrooms does not exceed 5,000 square feet (465 m^2); and
> 2. Clusters of portable school classrooms shall be separated as required by Chapter 5.
> Per Washington State Amendments.

(Ord. 2523 § 1, 2004; Ord. 2377 § 11, 2001).

16.04.080 Section 903.2.3 amended – Sprinkler systems – Group F Occupancies.

Section 903.2.3 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.3 is enacted to be added to the building code reading as follows:

> Section 903.2.3 Group F occupancies. An automatic fire sprinkler system shall be installed in Group F occupancies over 2,500 square feet (232.3 m^2) in area that use equipment, machinery or appliances that

generate finely divided combustible waste or that use finely divided combustible materials. All other Group F occupancies that have 10,000 square feet (929.03 m^2) or more of floor area shall be provided with an automatic fire sprinkler system.

(Ord. 2523 § 1, 2004; Ord. 2377 § 12, 2001).

16.04.090 Section 903.2.4 amended – Fire-extinguishing systems – Group H Occupancies.

Section 903.2.4 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.4 is enacted to be added to the building code reading as follows:

Section 903.2.4 General. An automatic fire-extinguishing system shall be installed in Group H, Divisions 1, 2, 3, and 7 Occupancies. Group H, Division 5 occupancies that have 10,000 square feet (929.03 m^2) or more of floor area shall be provided with an automatic fire sprinkler system.

(Ord. 2523 § 1, 2004; Ord. 2377 § 13, 2001).

16.04.100 Section 903.2.6 amended – Sprinkler systems – Group M Occupancies.

Section 903.2.6 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.6 is enacted to be added to the building code reading as follows:

Section 903.2.6 Group M Occupancies. An automatic sprinkler system shall be installed in rooms classed as Group M Occupancies where the floor area is 10,000 square feet (929.03 m^2) or more on any floor 20,000 square feet (1,858.06 m^2) or more on all floors or in Group M Occupancies more than three stories in height. The area of mezzanines shall be included in determining the areas where sprinklers are required.

(Ord. 2523 § 1, 2004; Ord. 2377 § 14, 2001).

16.04.110 Section 903.2.7 amended – Sprinkler systems – Group R Occupancies.

Section 903.2.7 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.7 is enacted to be added to the building code reading as follows:

Section 903.2.7 Group R Occupancies. An automatic sprinkler system shall be installed throughout every apartment house three or more stories in height or containing 5 or more dwelling units, every congregate residence three or more stories in height or having an occupant load of 5 or more, and every hotel three or more stories in height or containing 5 or more guest rooms. Residential or quick-response standard sprinklers shall be used in the dwelling units and guest room portions of the building.

(Ord. 2523 § 1, 2004; Ord. 2377 § 15, 2001).

16.04.120 Section 903.2.8 added – Sprinkler systems – Group S Occupancies.

A new Section 903.2.8 is hereby enacted and added to the International Building Code as previously enacted and amended by the city reading as follows:

Section 903.2.8 Group S Occupancies. An automatic sprinkler system shall be installed throughout all Group S occupancies that have 10,000 square feet (929.03 m^2) or more of floor area.

(Ord. 2523 § 1, 2004; Ord. 2377 § 16, 2001).

16.04.130 Section 903.2.14 added – Area separation walls.

A new Section 903.2.14 is hereby enacted and added to the International Building Code as previously enacted and amended by the city reading as follows:

Section 903.2.14. For the purposes of Section 903, area separation walls shall not define separate buildings.

(Ord. 2523 § 1, 2004; Ord. 2377 § 17, 2001).

16.04.140 Section 1104.1.2 amended – Number of exits.

Section 1104.1.2 of the International Building Code is amended in part to read as follows:

(a) Number of Exits. Every building or usable portion thereof shall have at least one (1) exit, and shall have not less than two (2) exits where required by Table No. 1004.1.2.

In all occupancies, floors, balconies and mezzanines above the main story having

an occupant load of more than ten (10) shall have not less than two (2) exits.

Each mezzanine used for storage purposes, if greater than 2,000 square feet or more than 60 feet in any dimension, shall have not less than two (2) stairways to an adjacent floor.

All remaining portions of Section 1004 shall remain unamended.

(Ord. 2523 § 1, 2004; Ord. 1375 § 9, 1984; Ord. 852 § 15, 1975).

16.04.160 Requirements for moved buildings.

The term "moved building" shall mean any structure designed for human occupancy that is moved horizontally or vertically for 10 feet or more when either the original site or its new site is located within the city of Marysville; it does not mean factory-built housing which is being moved into the city directly from the factory, or mobile/manufactured homes. In addition to all requirements of the International Building and Residential Codes, the following provisions shall apply to moved buildings:

(1) Before any building shall be moved into or within the city of Marysville, a moving permit shall be obtained from the city building official. The fee for said permit shall be the minimum building permit fee specified in the International Building and Residential Codes, plus the state surcharge. The application for the moving permit shall state the proposed moving date, the proposed moving route and the location of the new site for the building. A moving permit shall be issued only upon approval by both the building official and the street superintendent;

(2) No building shall be moved to or stored upon any site in the city of Marysville which is not a location approved in a moving permit issued by the city;

(3) Within 10 days after a building is moved to a new site in the city of Marysville, the owner shall apply for a building permit to place it on a permanent foundation and to bring it into compliance with the International Building and Residential Codes;

(4) Within 180 days after a building is moved to a new site within the city of Marysville, it shall be brought into full compliance with all applicable city codes and be ready for final approval by the building official. In hardship cases involving unforeseen circumstances, the building official shall be authorized to extend this time period for up to 60 additional days. (Ord. 2523 § 1, 2004; Ord. 1559, 1987).

Chapter 16.08

PLUMBING CODE[1]

Sections:

16.08.010 Adoption.
16.08.015 Subsequent amendments.
16.08.075 Table 1-A adopted – Schedule of fees and refunds.
16.08.080 Section 20.14 amended – Board of plumber appeals.
16.08.120 Section 20.17 added – Appendices.
16.08.130 Water conservation performance standards.
16.08.140 Pressure-regulating valves.

16.08.010 Adoption.

A certain document, not less than one copy of which is on file in the office of the building official of the city of Marysville, being marked and designated as the "Uniform Plumbing Code, 2003 Edition" published by the International Code Council, and appendices thereto, are adopted as the plumbing code of the city of Marysville for regulating the installation, removal, alteration or repair of plumbing and drainage systems and fixtures and water heating and treating equipment. Each and every one of the regulations, provisions, conditions and terms of the code are incorporated and made a part of this chapter as if fully set forth in this chapter. (Ord. 2523 § 2, 2004; Ord. 2204 § 4, 1998; Ord. 2062 § 5, 1996; Ord. 1948 § 5, 1993; Ord. 1372 § 1, 1984; Ord. 1077 § 1, 1979; Ord. 853 § 1, 1975).

16.08.015 Subsequent amendments.

All amendments or supplements to the Uniform Plumbing Code which are hereinafter adopted by the International Code Council and by the state of Washington as a part of the State Building Code, Chapters 51-56 and 51-57 WAC, shall become a part of this code in all respects insofar as it is applied and enforced within the jurisdictional boundaries of the city of Marysville. (Ord. 2523 § 2, 2004; Ord. 853 § 2, 1975).

16.08.075 Table 1-A adopted – Schedule of fees and refunds.

The schedule of fees specified in Table 1-A entitled "Plumbing Permit Fees" is hereby adopted.

Section 103.4.5 amended – Refunds.

The building official may authorize refunding of not more than 80 percent of the plan

1. Prior legislation: Ords. 507, 556, and 621.

review or permit fee paid when no review or work has been done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 90 days after the date of the fee payment.

(Ord. 2523 § 2, 2004; Ord. 2204 § 6, 1998; Ord. 1948 § 7, 1993; Ord. 1719, 1989).

16.08.080 Section 20.14 amended – Board of plumber appeals.

Section 20.14 of the administration chapter of the Uniform Plumbing Code is amended to read as follows:

Board of Plumber Appeals. A Board of Plumber Appeals shall consist of five (5) members: two (2) qualified Plumbing Contractors, two (2) qualified Journeyman Plumbers, and one (1) member from the public at large. One (1) member of the administrative authority shall act as Secretary and serve as an ex officio member. The Board shall be appointed by and serve at the pleasure of the appointing authority of the City.

The members of said Board shall serve for one year, unless sooner removed for cause.

The Board of Plumber Appeals shall have the following duties:

(1) It shall be the duty of the Board to act as a Board of Appeals in making a correct determination of any appeal arising from actions of the administrative authority.

(2) Said Board shall keep an accurate record of all its official transactions and render such reports and statistics as the administrative authority may require and direct.

(3) Said Board shall elect annually a Chairman from the members who shall preside at all meetings. It shall adopt such rules and regulations as it sees fit for the proper and efficient discharge of its official duties.

Appeals shall be made in writing and the appellant may appear in person before the Board or be represented by an attorney and may introduce evidence to support his claims. Appeals shall be heard at reasonable times at the convenience of the Board but not later than thirty (30) days after receipt thereof.

The appellant shall cause to be made at their own expense any tests or research required by the board to substantiate their claims.

Appeals shall be timely filed within thirty (30) days of a determination by the administrative authority.

(Ord. 2523 § 2, 2004; Ord. 853 § 5, 1975).

16.08.120 Section 20.17 added – Appendices.

There is added to the administration chapter of the Uniform Plumbing Code a new Section 20.17, which shall read as follows:

20.17 Appendices. All appendices of the 2003 Edition of the Uniform Plumbing Code are incorporated by reference and made a part of this chapter.

(Ord. 2523 § 2, 2004; Ord. 1948 § 8, 1993; Ord. 1476 § 2, 1986; Ord. 1372 § 5, 1984; Ord. 1077 § 7, 1979; Ord. 853 § 9, 1975).

16.08.130 Water conservation performance standards.

The water conservation performance standards specified in RCW 19.27.170, and the rules for the implementation of the same adopted by the State Building Code Council in Chapter 51-18 WAC, and any and all amendments or supplements to the same, are hereby adopted by reference as part of the plumbing code of the city of Marysville. (Ord. 2523 § 2, 2004; Ord. 1807 § 2, 1990).

16.08.140 Pressure-regulating valves.

Where static water service pressure exceeds 80 pounds per square inch, a pressure-regulating valve shall be installed and maintained in the consumer's piping between the meter and the first point of water use, and set at not more than 50 pounds per square inch when measured at the highest fixture in the structure served. This requirement may be waived if the consumer presents evidence satisfactory to the city that excessive pressure has been considered in the design of water-using devices and that no water will be wasted as a result of high pressure operation. (Ord. 2523 § 2, 2004; Ord. 1807 § 2, 1990).

Chapter 16.10

ENERGY EFFICIENCY AND CONSERVATION STANDARDS

Sections:

16.10.030 Washington State Energy Code adopted.
16.10.040 Violations – Penalties.

16.10.030 Washington State Energy Code adopted.

The Washington State Energy Code, Chapters 51-11, 51-12 and 51-13 WAC, is adopted and incorporated into and made a part of this chapter by reference. Said code shall apply to all heated residential and nonresidential construction. (Ord. 1948 § 11, 1993; Ord. 1762 § 2, 1990).

16.10.040 Violations – Penalties.

It is unlawful for any person, firm or corporation to erect or construct any building, or remodel or rehabilitate any existing building or structure in the city, or allow the same to be done, contrary to or in violation of any of the provisions of this chapter. Violations of this chapter are misdemeanors and shall be punished pursuant to MMC 1.01.080. (Ord. 1762 § 2, 1990).

Chapter 16.16

SIGN CODE[1]

(Repealed by Ord. 2131)

1. See Chapter 19.20 MMC.

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Chapter 16.20

DANGEROUS BUILDINGS

Sections:

16.20.010 Defective conditions enumerated.
16.20.020 Administration and enforcement by building official and city engineer – Powers and duties.
16.20.030 Hearing by city engineer – Findings of fact – Order to abate – Compliance.
16.20.040 Standards to be followed in ordering abatement.
16.20.050 Appeals commission established – Appointment of members.
16.20.060 Appeals – Findings of commission – Failure to comply with final order.
16.20.070 Appeal to Superior Court.
16.20.080 Failure to comply – Assessment of costs.
16.20.090 Civil and criminal enforcement.

16.20.010 Defective conditions enumerated.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings."

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

(2) Those which, exclusive of the foundation, show 33 percent, or more, or damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering;

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(4) Those which have become damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city of Marysville;

(5) Those which have become or are so dilapidated or decayed or unsafe or unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;

(6) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein;

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property;

(9) Those which because of their condition are unsafe or unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the city. (Ord. 578 § 1, 1967).

16.20.020 Administration and enforcement by building official and city engineer – Powers and duties.

The building official shall be charged with the primary responsibility for the administration and enforcement of this chapter and shall be assisted by the building inspector and city engineer, and each, as well as the appeals commission hereinafter established, shall have and exercise, in addition to those powers herein enumerated, such other powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter.

The city building official and/or his authorized representative shall:

(1) Inspect or cause to be inspected all buildings including, but not necessarily limited to, schools, halls, churches, theaters, hotels, all family, commercial, manufacturing or loft buildings which may be brought to his attention by the fire chief or any one of his duly authorized representatives or the police chief or any one of his duly authorized representatives for the purpose of determining whether any conditions exist which render such places "dangerous buildings" within the terms of MMC 16.20.010;

(2) Inspect or cause to be inspected any building, wall or structure about which complaints are made by any person to the effect that a building, wall or structure is, or may be, existing in violation of this chapter;

(3) After such inspection, if he finds any dwelling, building or other structure to be a "dangerous building," he shall cause to be served, either personally or by certified mail, with a return receipt requested, on all persons having any interest therein, as shown upon the records of the auditor's office of Snohomish County, and shall post in a conspicuous place on such property, a complaint stating in what respect such dwelling, building or structure is a "dangerous building." If the whereabouts of such persons is unknown, and the same cannot be ascertained by the building inspector in

the exercise of reasonable diligence, and the building inspector shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same once each week for two consecutive weeks in a legal newspaper published in the city. Such complaint shall contain a notice that a hearing will be held before the city engineer, at a place therein fixed, not less than 10 days nor more than 30 days after the serving of said complaint; or in the event of publication, not less than 15 days nor more than 30 days from the date of the first publication; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person, or otherwise, and to give testimony at the time and place fixed in the complaint. Rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the city engineer. A copy of such complaint shall also be filed with the auditor of Snohomish County, and such filing of the compliant or order shall have the same force and effect as other lis pendens notices provided by law;

(4) Appear at all hearings conducted by the city engineer and the appeals commission, hereinafter established, and testify as to the condition of such "dangerous buildings";

(5) The city engineer and the city building official and/or their authorized representatives shall be empowered to enter any building or structure for the purpose of making inspection thereof when said officers have reasonable grounds for believing that said buildings or structures are "dangerous buildings"; provided, that such entry shall be made in such a manner as to cause the least possible inconvenience to the persons in possession. (Ord. 1948 § 13, 1993; Ord. 1102 § 2, 1980; Ord. 578 § 2, 1967).

16.20.030 Hearing by city engineer – Findings of fact – Order to abate – Compliance.

The city engineer shall:

(1) Hold a hearing to adduce such testimony as may be presented by any department of the city of Marysville, or the owner, occupant, mortgagee, lessee or any other person having an interest in such building or premises designated a "dangerous building," as shown by the records of the Snohomish County auditor;

(2) Make written findings of fact from the testimony offered pursuant to subsection (1) as to whether or not the building in question is a "dangerous building" within the terms of MMC 16.20.010;

(3) After a complete investigation of the "dangerous building," issue an order based upon said findings of fact commanding the occupant, mortgagee, lessee, agent and all other persons having an interest in said building, as shown by the records of the Snohomish County auditor, to repair and/or vacate and/or demolish such building found to be a "dangerous building" within the terms of this chapter;

(4) Send a copy of said order and findings of fact via certified mail to the owner, lessee, mortgagee, agent and all other persons having an interest in the said building, as shown by the records of the Snohomish County auditor, of any building found by the city engineer to be a "dangerous building" within the standards set forth in MMC 16.20.010, and a copy of the said order shall be posted in a conspicuous place on said building. The order and findings of fact shall cover the following information:

(a) Name of the owner or other persons interested, as provided hereinabove,

(b) Street address and legal description of the property on which said building, wall or structure is located,

(c) General description of type of building, wall or structure deemed unsafe,

(d) A complete, itemized statement or list of particulars which caused the building, wall or structure to be a "dangerous building" as defined in MMC 16.20.010,

(e) Whether or not the defects specified in the statement or list of particulars, as provided for in paragraph D above, can be removed or repaired,

(f) Whether or not said building should be vacated by the occupants, and the date of such vacation,

(g) Whether or not the said building constitutes a fire menace,

(h) Whether or not it is unreasonable to repair the said building and whether or not the said building should be demolished,

(i) A statement of the reasonable time to commence to vacate and/or make repairs and/or demolish the building, as provided in said order. A reasonable time shall not exceed 30 days except in cases of an unusually large building. The time to commence may be extended by the city engineer or the appeals commission for an additional period of 60 days; provided, however, the extension is applied for by the owner or other persons interested in the property as hereinabove defined at least five days before the expiration of the time to commence vacation, repair or demolition,

(j) A reasonable time to complete the vacation, repairs or demolition as provided in said order, and said reasonable time for completion shall not exceed 60 days, unless the time is extended by resolution of the city council;

(5) If the owner, mortgagee, lessee or other person having an interest in said building fails to comply with the order provided for in subsection (3) within 30 days or any reasonable time ordered by the city engineer, then the city engineer shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant under the standards herein before provided in MMC 16.20.010, and the costs of such repair, vacation or demolition shall be a lien charged against the land on which said building or structure existed in favor of the city of Marysville, to be foreclosed in the manner provided for in the foreclosure of mechanics' and materialmen's liens, or shall be recovered in a suit at law or equity against the owner; provided, however, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of this city, the city engineer may notify the city attorney to take legal action to force the owner to make all necessary repairs, vacate or demolish the building or structure;

(6) If no appeal is filed as hereinafter provided, a copy of the order and findings of fact shall be filed with the Auditor of Snohomish County. (Ord. 578 § 3, 1967).

16.20.040 Standards to be followed in ordering abatement.

The following standards shall be followed in substance by the city engineer and appeals commission in ordering repair, vacation or demolition of any "dangerous building,":

(l) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired by the city engineer or the appeals commission;

(2) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated by the city engineer of the appeals commission;

(3) If the "dangerous building" is 50 percent damaged or decayed or deteriorated in value, it shall be demolished. Value as used herein shall be the valuation placed upon the building for purposes of general taxation;

(4) If the "dangerous building" cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. (Ord. 1102 § 3, 1980; Ord. 578 § 4, 1967).

16.20.050 Appeals commission established – Appointment of members.

(1) There is hereby created and established a body to be known as the appeals commission of the city of Marysville, which shall consist of three members, residents of the city of Marysville to be appointed by the mayor with the approval of the city council, one of whom shall be elected by said members to serve in the capacity of chairman. The members shall be appointed for a term of three years; provided, however, that of the members first appointed, one member shall be appointed for a term of one year, one member for a term of two years and one member for a term of three years. Thereafter, all such appointments shall be for a term of three years.

(2) In the event of the death, resignation or removal of any member of the appeals commission, the mayor shall appoint a successor to serve his unexpired term, which appointment shall be made in the manner herein provided. Any member of the appeals commission shall be eligible for reappointment and all shall serve without compensation. The city of Marysville shall furnish to the appeals commission such clerical help as may be required. (Ord. 578 § 5, 1967).

16.20.060 Appeals – Findings of commission – Failure to comply with final order.

(1) The owner or any party of interest, within 30 days from the date of service upon the owner and posting of an order issued by the city engineer under the provisions of MMC 16.20.030, may file an appeal in writing with the appeals commission setting forth with particularity the alleged errors of the order and findings of fact issued by the city engineer. Upon receipt of such written appeal the matter shall be promptly set down for hearing before the appeals commission, and all such appeals shall be resolved by the appeals commission within 60 days from the date of filing therewith.

(2) The findings of fact and orders of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the city engineer. A transcript of the findings of fact and orders of the appeals commission shall be made available to the owner or the party in interest upon demand and shall be filed with the auditor of Snohomish County. (Ord. 1102 § 4, 1980; Ord. 578 § 6, 1967).

16.20.070 Appeal to Superior Court.

Any person affected by an order issued by the appeals commission may, within 30 days after the posting and service of the order, petition to the Superior Court for an injunction restraining the city from carrying out the provisions of the order. In all such proceedings, the Superior Court shall have authority to affirm, reverse or modify the city's order, and the Superior Court trial shall be heard de novo. (Ord. 1102 § 5, 1980).

16.20.080 Failure to comply – Assessment of costs.

(1) If the owner or party in interest, following exhaustion of his rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove or demolish the dwelling, building or structure, the city council may direct and cause such dwelling, building or structure to be repaired, altered, improved, vacated and closed, removed or demolished by city employees or by city contract. The amount of the cost of such repairs, alterations, improvements or vacating and closing, or removal and demolition, shall be assessed against the real property upon which such cost was incurred, unless such amount is previously paid. Upon certification to him by the city treasurer of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the city of Marysville. If the dwelling, building or structure is removed or demolished by the city, the city shall, if possible, sell the materials of such dwelling, building or structure and credit the proceeds of such sale against the cost of the removal or demolition, and if there be any balance remaining, it shall be paid to the parties entitled thereto, after deducting the costs incident thereto. The demolition assessment shall constitute a lien against the property of equal rank with state, county and municipal taxes.

(2) The remedies and procedures provided for herein shall be cumulative with all other remedies and procedures available to the city for the enforcement of compliance with its ordinances. (Ord. 1102 § 6, 1980).

16.20.090 Civil and criminal enforcement.

(1) Any dwelling, building or structure which is found pursuant to procedures of this chapter to be a "dangerous building," and which is not repaired, altered, improved, vacated, closed, removed or demolished as required herein, is hereby declared to be a public nuisance. The city shall have the authority to commence civil proceedings for the abatement thereof, and to enforce compliance with the orders entered pursuant to this chapter, in the Snohomish County Superior Court. The cost of such proceedings, including reasonable attorney's fees, shall be assessed against the property owners or other party in interest.

(2) It is unlawful for any person to maintain a public nuisance, as defined above, or to willfully omit or refuse to comply with an order entered pursuant to this chapter to repair, alter, improve, vacate, close, remove or demolish a "dangerous building." Any person found guilty of such criminal acts or omissions, by judgment of the Marysville police court, shall be punished by imposition of a fine not to exceed $300.00. Each day's violation shall constitute a separate offense punishable hereunder. (Ord. 1102 § 8, 1980).

Chapter 16.28

MECHANICAL CODE

Sections:

16.28.010 Adoption by reference.
16.28.015 Fee schedule adopted and refunds.
16.28.020 Subsequent amendments.
16.28.035 Solid-fuel-burning appliances.
16.28.040 Penalty for violation.

16.28.010 Adoption by reference.

A certain document, not less than one copy of which is filed in the office of the building official of the city of Marysville, being marked and designated as the "International Mechanical Code, 2003 Edition," and appendices Chapter A thereto, published by the International Code Council, and the International Fuel Gas Code, 2003 Edition, is adopted as the mechanical code of the city of Marysville for regulating the installation and maintenance of heating, ventilating, cooling and refrigeration systems, providing for the issuance of permits and the collection of fees therefor, and providing penalties for the violation thereof. Each and all of the regulations, provisions, penalties, conditions and terms of said code are incorporated and made a part of this chapter as if fully set forth herein. (Ord. 2523 § 3, 2004; Ord. 2204 § 5, 1998; Ord. 2062 § 7, 1996; Ord. 1948 § 14, 1993; Ord. 1477 § 1, 1986; Ord. 1374 § 1, 1984; Ord. 1080 § 1, 1979; Ord. 849 § 1, 1975).

16.28.015 Fee schedule adopted and refunds.

Sections 106.5.2 and 2003 IMC Table 1-A of the International Mechanical Code, "Mechanical Permit Fees," is hereby adopted.

Section 106.5 Fee funds amended – Refunds:

> The building official may authorize refunding of not more than 80 percent of the plan review or permit fee paid when no review or work has been done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 90 days after the date of the fee payment.

(Ord. 2523 § 3, 2004).

16.28.020 Subsequent amendments.

All amendments or supplements to the International Mechanical Code or the appendices Chapter A thereto hereinafter adopted by the International Code Council shall become a part of the code in all respects insofar as it is applied and enforced within the jurisdictional boundaries of the city of Marysville. (Ord. 2523 § 3, 2004; Ord. 1080 § 2, 1979; Ord. 849 § 2, 1975).

16.28.035 Solid-fuel-burning appliances.

No used solid-fuel-burning appliances shall be installed in new or existing buildings unless such device is United States Environmental Protection Agency certified, including pellet stoves. (Ord. 2523 § 3, 2004; Ord. 1374 § 2, 1984; Ord. 1189, 1981).

16.28.040 Penalty for violation.

Any person willfully violating or failing to comply with any of the provisions of this chapter shall, upon conviction, be punished according to the provisions set forth in MMC 1.01.080. (Ord. 2523 § 3, 2004; Ord. 731 § 3, 1971).

Chapter 16.32

FLOODPLAIN MANAGEMENT

Sections:

Article I. Purpose and Definitions

16.32.010 Statement of purpose.
16.32.020 Definitions.

Article II. General Provisions

16.32.030 Lands to which this chapter applies.
16.32.040 Basis for establishing the areas of special flood hazard.
16.32.050 Penalties for noncompliance.
16.32.060 Abrogation and greater restrictions.
16.32.070 Interpretation.
16.32.080 Warning and disclaimer of liability.

Article III. Administration

16.32.090 Establishment of development permit.
16.32.100 Designation of the building official.
16.32.110 Duties and responsibilities of building official.

Article IV. Variance Procedure

16.32.120 Appeal board.
16.32.130 Conditions for variances.

Article V. Provisions for Flood Hazard Protection

16.32.140 General standards.
16.32.150 Review of building permits.
16.32.160 Specific standards.
16.32.170 Encroachments.
16.32.180 Manufactured homes.
16.32.190 Recreational vehicles.
16.32.200 Floodways.
16.32.210 Critical facility.

Article I. Purpose and Definitions

16.32.010 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(1) To protect human life and health;

(2) To minimize expenditure of public money and costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

(6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and

(8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 1339, 1984).

16.32.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

(1) "Appeal" means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.

(2) "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(3) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

(4) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

(5) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

(6) "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to,

schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

(7) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

(8) "Elevated building" means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

(9) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

(10) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(11) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(12) "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(13) "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

(14) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(15) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or floor resistant enclosure, used solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this code.

(16) "Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles. The term "manufactured home" does not include a "recreational vehicle."

(17) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(18) "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

(19) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adopted floodplain management regulations.

(20) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(21) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the per-

mit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(22) "Structure" means a walled and roofed building or mobile home that is principally above ground.

(23) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(24)(a) "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(i) Before the improvement or repair is started; or

(ii) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(b) The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or any alteration of a "historic structure," provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

(ii) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(25) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(26) "Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 2325 § 1, 2000).

Article II. General Provisions

16.32.030 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Marysville. (Ord. 1339, 1984).

16.32.040 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Marysville" dated February 15, 1984, as amended, with accompanying Flood Insurance Rate Maps (FIRM), as amended, is adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at Marysville City Hall, 4822 Grove Street, Marysville, Washington. The best available information for flood hazard area identification as outlined in MMC 16.32.110(2) shall be the basis for regulation until a new FIRM is issued which incorporates the date utilized under MMC 16.32.110(2). (Ord. 2325 § 2, 2000).

16.32.050 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from

taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 2325 § 3, 2000).

16.32.060 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1339, 1984).

16.32.070 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body;

(3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 1339, 1984).

16.32.080 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 1339, 1984).

Article III. Administration

16.32.090 Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in MMC 16.32.040. The permit shall be for all structures, including manufactured homes, as set forth in MMC 16.32.020, Definitions, and for all other development, including fill and other activities, also as set forth in MMC 16.32.020, Definitions. Application for a development permit shall be made on forms furnished by the building official and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in MMC 16.32.160; and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development. (Ord. 2325 § 4, 2000; Ord. 1339, 1984).

16.32.100 Designation of the building official.

The building official is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 1339, 1984).

16.32.110 Duties and responsibilities of building official.

Duties of the building official shall include, but not be limited to:

(1) Permit Review.

(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied;

(b) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

(c) Review all development permits in the area of special flood hazard, except in the coastal high hazard area, to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with MMC 16.32.040, Basis for establishing the areas of special flood hazard, the building official shall obtain, review and reasonably

utilize any base flood elevation data available from a federal, state or other source, in order to administer MMC 16.32.160, Specific standards, 16.32.180, Manufactured homes, 16.32.190, Recreational vehicles, and 16.32.200, Floodways.

(3) Information to Be Obtained and Maintained.

(a) Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

(b) For all new or substantially improved floodproofed structures:

(i) Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and

(ii) Maintain the floodproofing certifications required in MMC 16.32.090(3);

(c) Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of Watercourses.

(a) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

(b) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in MMC 16.32.120. (Ord. 2466 § 1, 2003; Ord. 2325 § 5, 2000).

Article IV. Variance Procedure

16.32.120 Appeal board.

(1) The city council shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the city council, or any taxpayer, may appeal such decision to the Snohomish County Superior Court, as provided by law.

(4) In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety or access to the property in times of flood for ordinary emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of the wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) Generally, the only condition under which a variance from elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (4)(a) through (4)(k) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors of subsection (4) of this section and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(7) The building official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 2325 § 6, 2000).

16.32.130 Conditions for variances.

(1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in MMC 16.32.120(4), or conflict with existing local laws or ordinances.

(5) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(6) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except MMC 16.32.120(5), and otherwise complies with MMC 16.32.140(1) and (2) of the general standards.

(7) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 2325 § 7, 2000).

Article V. Provisions for Flood Hazard Protection

16.32.140 General standards.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) All manufactured homes shall be installed using methods and practices which minimize flood damage. For purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame tie to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

(c) An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater. Certification must be provided to the building official that this standard has been met.

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

(d) The proposed water well shall be located on high ground that is not in the floodway (WAC 173-160-171).

(4) Subdivision Proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less). (Ord. 2325 § 8, 2000).

16.32.150 Review of building permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (MMC 16.32.110(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. (Ord. 2325 § 9, 2000).

16.32.160 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in MMC 16.32.040, Basis for establishing the areas of special flood hazard, or MMC 16.32.110(2), Use of Other Base Flood Data, the following provisions are required:

(1) Construction or reconstruction of residential structures is prohibited within designated floodways except for: (a) repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, reconstruction or improvement is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary or safety codes or to structures identified as historic places shall not be included in the 50 percent determination.

(2) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

(3) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that for up to one foot below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official as set forth in MMC 16.32.110(3)(b);

(i) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (6) of this section;

(ii) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).

(5) Encroachments, including fill, new construction, substantial improvements and other developments shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(6) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic

flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvres or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters. (Ord. 2466 § 2, 2003; Ord. 2325 § 10, 2000).

16.32.170 Encroachments.

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. (Ord. 1339, 1984).

16.32.180 Manufactured homes.

(1) All manufactured homes to be placed or substantially improved on sites:

(a) Outside of a manufactured home park or subdivision;

(b) In a new manufactured home park or subdivision;

(c) In an expansion to an existing manufactured home park or subdivision; or

(d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "subdivision damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

(a) The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement. (Ord. 2325 § 11, 2000).

16.32.190 Recreational vehicles.

Recreational vehicles placed on sites are required to either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(3) Meet the requirements of MMC 16.32.180 and the elevation and anchoring requirements for manufactured homes. (Ord. 2325 § 12, 2000).

16.32.200 Floodways.

Located within areas of special flood hazard established in MMC 16.32.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area, and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

(3) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V, Provisions for Flood Hazard Protection. (Ord. 2325 § 13, 2000).

16.32.210 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 2325 § 14, 2000).

Chapter 16.36

BUILDING SPECIFICATIONS FOR THE HANDICAPPED

Sections:

16.36.010 Adoption.
16.36.020 Subsequent amendments.

16.36.010 Adoption.

A certain document, not less than three copies of which are on file in the office of the clerk of the city of Marysville, being marked and designated as Chapters 51-20 and 51-21 WAC ("Rules and Regulations Setting Barrier-Free Design Standards"), and Chapter 70.92 RCW ("Public Buildings – Provision for Aged and Handicapped"), are hereby adopted by reference, and incorporated herein as if the same were fully set forth in this chapter. (Ord. 1948 § 15, 1993; Ord. 1081 § 1, 1979; Ord. 848 § 1, 1975).

16.36.020 Subsequent amendments.

All amendments or supplements to Chapter 51-10 WAC, and Chapter 70.92 RCW, shall become a part of this code in all respects insofar as the same are applied and enforced within the jurisdictional boundaries of the city of Marysville. (Ord. 1081 § 2, 1979; Ord. 848 § 2, 1975).

Chapter 16.40

FACTORY-BUILT HOUSING

(Repealed by Ord. 2131)

Title 17

(Reserved)

Title 18

PLANNING[1]

Chapters:

18.04 Planning Commission
18.08 Comprehensive Plan
18.10 Procedures for Legislative Actions
18.16 Shoreline Management Master Program
18.20 *Repealed*
18.24 Mitigation of Impacts Resulting from Development Proposals
18.28 *Repealed*

1. Duties of planning commission in regard to zoning – See MMC Title 19.
Duties of planning commission in regard to subdivisions – See MMC Title 20.

Chapter 18.04

PLANNING COMMISSION

Sections:

18.04.010 Planning commission created.
18.04.020 Appointment of members – Term of office.
18.04.030 Expenses.
18.04.040 Meetings – Officers – Rules.
18.04.050 Quorum – Voting.
18.04.060 Conflicts of interest.
18.04.070 General powers and duties.

18.04.010 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. 1298 § 2, 1983).

18.04.020 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. 2137, 1997; Ord. 1298 § 2, 1983).

18.04.030 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. 1298 § 2, 1983).

18.04.040 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. 1298 § 2, 1983).

18.04.050 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. 1298 § 2, 1983).

18.04.060 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. 1298 § 2, 1983).

18.04.070 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. 2030 § 1, 1995; Ord. 1298 § 2, 1983).

Chapter 18.08

COMPREHENSIVE PLAN

Sections:

18.08.010 Comprehensive plan – Preparation.
18.08.020 Notice and hearing.
18.08.030 Recommendation to city council.
18.08.040 Action by city council.
18.08.050 Effect of comprehensive plan.

18.08.010 Comprehensive plan – Preparation.

(1) The city shall have a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the city and its environs. The plan may consist of a map or maps, diagrams, charts, reports and descriptive and explanatory text or other devices and materials to express, explain or depict the elements of the plan. It shall include a recommended plan, scheme or design for each of the following elements:

(a) A land-use element that designates the proposed general distribution, general location and extent of the uses of land. These uses may include, but are not limited to, agricultural, residential, commercial, industrial, recreational, educational, public and other categories of public and private uses of land. The land-use elements shall also include estimates of future population growth in, and statements of recommended standards of population density and building intensity for, the area covered by the comprehensive plan;

(b) A circulation element consisting of the general location, alignment, and extent of existing and proposed major thoroughfares, major transportation routes, and major terminal facilities, all of which shall be correlated with the land-use element of the comprehensive plan.

(2) The comprehensive plan may also include any or all of the following optional elements:

(a) A conservation element for the conservation, development and utilization of natural resources;

(b) An open-space, park and recreation element;

(c) A transportation element, showing a comprehensive system of surface, air and water transportation routes and facilities;

(d) A public-use element, showing general locations, designs and arrangements of public buildings and uses;

(e) A public-utilities element, showing general plans for public and franchised services and facilities;

(f) A redevelopment or renewal element, showing plans for the redevelopment or renewal of slum and blighted areas;

(g) An urban-design element for general organization of the physical parts of the urban landscape;

(h) Other elements dealing with subjects that, in the opinion of the city council, relate to the development of the city, or are essential or desirable to coordinate public services or programs with such development;

(i) A solar-energy element, for encouragement and protection of access to direct sunlight for solar energy systems. (Ord. 1299, 1983).

18.08.020 Notice and hearing.

(1) The planning commission shall hold at least one public hearing on the comprehensive plan and any proposed amendments or supplements thereto. Notice of the time, place and purpose of such public hearings shall be, at a minimum, as follows:

(a) One publication in the official newspaper of the city at least 10 days prior to the hearing;

(b) Posting of copies of the notice of hearing at Marysville City Hall, at the United States Post Office in the city, and in at least one additional location with public exposure, at least 10 days prior to the date of the hearing.

(2) Continued hearings may be held at the discretion of the planning commission, but no additional notices need be published or posted. (Ord. 1299, 1983).

18.08.030 Recommendation to city council.

Upon completion of the hearing or hearings on the comprehensive plan, or amendments thereto, the planning commission shall transmit a copy of its recommendations thereon to the city council for final action. (Ord. 1299, 1983).

18.08.040 Action by city council.

Within 60 days from its receipt of the recommendations of the planning commission, the city council shall consider the proposed comprehensive plan, or amendment thereto, at a public meeting. The city council shall vote to approve or disapprove or to modify and approve, as modified, the comprehensive plan, or the proposed amendment thereto, or the city council may refer the matter back to the planning commission for further proceedings, directing the commission to make a new recommendation within a specified time. The final form and content of the comprehensive plan, and all amendments thereto, shall be determined by the city council. An affirmative vote of not less than a majority of the total members of the city council shall be required for adoption of a resolution to approve the comprehensive plan, or any amendment thereto. The comprehensive plan, and all amendments thereto, as approved by the city council, shall be filed with the city clerk and shall be available for public inspection. (Ord. 1299, 1983).

18.08.050 Effect of comprehensive plan.

(1) From the date of approval by the city council, the comprehensive plan, its parts and modifications thereof, shall serve as a basic source of reference for future legislative and administrative action. Provided, that the comprehensive plan shall not be construed as a regulation of property rights or land uses; provided further, that no procedural irregularity or informality in the consideration, hearing and development of the comprehensive plan or a part thereof, or any of its elements, shall affect the validity of any zoning ordinance or amendment thereto enacted by the city after approval of the comprehensive plan.

(2) The comprehensive plan shall be consulted as a preliminary to the establishment, improvement, abandonment or vacation of any street, park, public way, public building or public structure, and no dedication of any street or other area for public use shall be accepted by the city until the location, character, extent and effect thereof shall have been considered with reference to the comprehensive plan. (Ord. 1299, 1983).

Chapter 18.10

PROCEDURES FOR LEGISLATIVE ACTIONS

Sections:

18.10.010 Purpose.
18.10.020 Scope of chapter.
18.10.030 Initial review and evaluation of proposed amendments and revisions.
18.10.040 Planning commission review.
18.10.050 City council review.
18.10.060 Public notice and public hearings.
18.10.070 Effect of city council action.
18.10.080 Violation not grounds for invalidation.
18.10.090 Severability.
18.10.100 Repealer.

18.10.010 Purpose.

The purpose of this chapter is to establish procedures for review of proposed amendments and revisions to the city's comprehensive plan and implementing development regulations adopted under the Growth Management Act (GMA) which are legislative in nature. These procedures are also intended to supplement the comprehensive plan docketing process outlined in the comprehensive plan and Resolution No. 1839. The procedures contained in this chapter are not a substitute for city permitting procedures, nor do the procedures in this chapter relate to applications or other actions which are quasi-judicial in nature. (Ord. 2406, 2002).

18.10.020 Scope of chapter.

This chapter contains the procedures the city will use to take legislative actions for the following, and which by way of reference below, shall be considered legislative actions:

(1) Amendments to the GMA comprehensive plan, including but not limited to the following elements: land use, housing, transportation, parks and recreation, capital facilities, water and sewer utilities, public facilities and services, economic development, subarea plans and the comprehensive plan land use map.

(2) Rezoning of land when such rezone is associated with a comprehensive plan designation amendment.

(3) Area-wide rezones.

(4) Prezoning of property when associated with an annexation.

(5) Amendments to the sewer, water, or surface water comprehensive plans, which are adopted as part of the city's GMA comprehensive plan.

(6) Amendments to the shoreline management master program when associated with comprehensive plan amendments.

(7) Amendments or revisions to the zoning code.

(8) Technical corrections to any part of the GMA comprehensive plan or the city's development regulations.

(9) Any part of the Marysville Municipal Code adopted to meet the requirements of the GMA.

(10) Amendments to any of the provisions of MMC Title 20 relating to subdivisions.

(11) Any other matters which by statute, ordinance or common law are legislative in nature (as opposed to quasi-judicial). Ordinarily, matters which are quasi-judicial in nature will be reviewed through the land use hearing examiner as established by Chapter 2.70 MMC.

This chapter is intended to supplement, and not to limit or replace existing city authority and procedures for adoption of other legislation. Nothing in this chapter shall be construed to limit the legislative authority of the city to consider and adopt amendments and revisions to the GMA comprehensive plan and development regulations. Nothing contained in this chapter shall be intended to replace or repeal other provisions of the Marysville Municipal Code unless they are inconsistent herewith. (Ord. 2406, 2002).

18.10.030 Initial review and evaluation of proposed amendments and revisions.

The planning department shall conduct an initial review and evaluation of proposed amendments and revisions and assess the extent of review that would be required under the State Environmental Policy Act (SEPA) prior to planning commission and/or city council action. The initial review and evaluation shall include any review by other city departments or other agencies deemed necessary by the planning department. (Ord. 2406, 2002).

18.10.040 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 18.10.060. 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 planning department. (Ord. 2406, 2002).

18.10.050 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 18.10.060. 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. 2406, 2002).

18.10.060 Public notice and public hearings.

(1) Content. When the planning commission or city council has scheduled a public hearing on a legislative proposal, the planning department shall prepare a notice containing the following information:

(a) The name of the applicant, and, if applicable, the project name;

(b) If the application involves a specific property, the street address of the subject property, a description in nonlegal terms sufficient to identify its location, and a vicinity map indicating the subject property;

(c) A brief description of the action or approval requested;

(d) The date, time and place of the public hearing;

(e) If the application or request involves text or language revisions to any of the documents specified in MMC 18.10.020, and does not involve a specific property, the notice shall specify which document or documents are proposed to be amended or revised;

(f) A statement of the right of any person to participate in the public hearing.

(2) Provision of Notice.

(a) The planning department shall provide for notice of the public hearing to be published in the official newspaper of general circulation in the city at least 10 days prior to the date of the public hearing.

(b) If the proposal involves specific property, other than an area-wide change, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using the adjacent streets. The planning director shall establish standards for size, color, layout, design, wording, placement, and timing or installation and removal of the signs or placards.

(c) If the proposal involves specific property other than an area-wide change, notice of the public hearing shall be mailed to each owner of real property within 300 feet of any boundary of the subject property.

(d) If the proposal does not involve specific property, and relates to text or language revisions to any of the documents specified in MMC 18.10.020, the planning department may, but shall not be required, to provide reasonable notice in addition to newspaper publication through other means such as the city's local access cable channel, city newsletter, or website.

(e) The planning director shall also mail notice to each person who has requested such notice.

(3) Public Hearing.

(a) Participation. Any person may participate in the public hearing held by the planning commission or city council by submitting written comments to the planning director prior to the hearing or by submitting written comments or by making oral comments to the planning commission or city council at the hearing. All written comments received by the planning director shall be transmitted to the planning commission or city council not later than the date of the public hearing.

(b) Party of Record. Any person who participates in the manner set forth in subsection (3)(a) of this section shall be considered a party of record.

(4) Hearing Record. The planning commission and city council shall compile written minutes of each hearing. (Ord. 2406, 2002).

18.10.070 Effect of city council action.

The final action of the city council on all legislative matters described in MMC 18.10.020, which are subject to Growth Management Hearings Board Review, pursuant to RCW 36.70A.280, may be appealed by a party of record by filing the petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290. Appeal of any matters not subject to Growth Management Hearings Board review may be appealed by a party of record as provided in MMC 15.11.030. (Ord. 2406, 2002).

18.10.080 Violation not grounds for invalidation.

Violation of this chapter shall not constitute grounds for invalidation of any GMA comprehensive plan amendment, implementing development regulation, or other legislation or any of the actions listed under MMC 18.10.020. (Ord. 2406, 2002).

18.10.090 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 2406, 2002).

18.10.100 Repealer.

This chapter shall replace and supersede all other ordinances previously adopted which are inconsistent with the provisions of this chapter. (Ord. 2406, 2002).

Chapter 18.16

SHORELINE MANAGEMENT MASTER PROGRAM

Sections:

18.16.010 Adopted by reference.
18.16.020 Shoreline environment designation map.
18.16.030 Boundary interpretation.
18.16.040 Definitions.
18.16.050 Compliance required.
18.16.060 Permit required.
18.16.070 Permit – Fees.
18.16.080 Application – Form.
18.16.090 Review process.
18.16.100 Notice publication.
18.16.110 Decision.
18.16.120 *Repealed.*
18.16.130 Permit – Issuance.
18.16.140 Signing of permit.
18.16.150 Commencement of construction – Time lapse.
18.16.155 Time requirements of permit.
18.16.160 Scope of chapter.
18.16.170 Burden of proof.
18.16.180 Permit rescinded.
18.16.190 Rescission – Hearing.
18.16.200 Mayor's authority.
18.16.210 Conditional shoreline development permits – Generally.
18.16.220 Conditional shoreline development permits – Criteria.
18.16.230 Imposition of conditions.
18.16.235 Subsequent hearing – Publication of notice.
18.16.240 Compliance with conditions.
18.16.250 Variances – Generally.
18.16.260 Variances – Criteria.
18.16.265 Revisions to permit.
18.16.270 Nonconforming uses.
18.16.275 Streamside protection zone.
18.16.280 Violation – Penalty.

18.16.010 Adopted by reference.

The shoreline management master program of the city of Marysville, as adopted by the city council on December 9, 1974, and as conditionally adopted by the Washington State Department of Ecology on January 22, 1975, is approved for implementation. The program, and all officially adopted amendments thereto, are incorporated as a part of this chapter as if fully set forth in this chapter. The program shall be attested by the signature of the mayor and the city clerk with the seal of the

city affixed, and shall be kept on file in the office of the city clerk and made available for inspection by the public. (Ord. 859 § 1, 1975).

18.16.020 Shoreline environment designation map.

The locations and boundaries of the conservancy and urban environments on the shorelines of the city of Marysville shall be as shown on the map entitled "Shoreline Environment Designation Map." The map and all the officially adopted notations, references and amendments thereon are incorporated as a part of this chapter as if fully set forth in this chapter. The map shall be attested by the signature of the mayor and the city clerk, with the seal of the city affixed, and shall be kept on file in the office of the city clerk and made available for inspection by the public. (Ord. 859 § 2, 1975).

18.16.030 Boundary interpretation.

Where uncertainties exist as to the boundaries of any environment shown on the map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such lines.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following the corporate limits shall be construed as following such corporate limits.

(4) Boundaries indicated as following railroad lines shall be construed to be halfway between railroad right-of-way lines.

(5) Boundaries indicated as following shorelines shall be construed to follow such shorelines 200 feet upland from the ordinary high-water mark and including all marshes, bogs, swamps, floodways, river deltas and floodplains designated as wetlands by the Department of Ecology. In the event of a change in a shoreline or wetland area, the environment shall be construed as being adjusted accordingly.

(6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) shall be so construed.

(7) All shorelines not classified in an environment on the map shall be considered as being in the conservancy environment until officially designated otherwise.

(8) All land hereafter annexed to the city shall be considered as being classified in the environment such land enjoyed while under the jurisdiction of Snohomish County, pending study, public

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hearing and specific classification by the city. (Ord. 859 § 3, 1975).

18.16.040 Definitions.

The intent of the city council is to use the definitions contained in the Shoreline Management Act and the Shoreline Management Master Program rather than to legislate new definitions. (Ord. 859 § 4, 1975).

18.16.050 Compliance required.

No developments shall be undertaken on the shorelines of the city except those which are consistent with the policies of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, regulations, or master program. (Ord. 789 § 2, 1973).

18.16.060 Permit required.

No substantial development shall be undertaken on the shorelines of the city without first obtaining a permit from the city. (Ord. 789 § 3, 1973).

18.16.070 Permit – Fees.

All persons desiring such a permit shall make application by paying a fee as set out in Chapter 19.54 MMC and filing an application with the city planning department. (Ord. 2030 § 2, 1995; Ord. 1924 § 3, 1992; Ord. 1709, 1989; Ord. 1123 § 1, 1980; Ord. 1100 § 1, 1980; Ord. 789 § 4, 1973).

18.16.080 Application – Form.

Applications for permits shall be made on forms prescribed by the planning department, and shall contain the name and address of the applicant, a description of the development, the location of the development, and any other relevant information deemed necessary by the planning department. (Ord. 2030 § 3, 1995; Ord. 789 § 5, 1973).

18.16.090 Review process.

The planning department will review the substantial development permit proposals for consistency with:

(1) The legislative policies stated in RCW 90.58.020, the Shoreline Management Act;

(2) The Shoreline Management Master Program of the city of Marysville. (Ord. 2030 § 3, 1995; Ord. 1123 § 2, 1980; Ord. 789 § 6, 1973).

18.16.100 Notice publication.

Upon receipt of an application for a permit, the city shall cause notice of application to be published at least once a week for two consecutive weeks in a newspaper of general circulation within the city. The second notice shall be published not less than 30 days prior to action by the planning department. The city shall also cause notice of the application to be mailed to each property owner of record within 300 feet of the proposed development. The date of the mailing shall not be less than seven days in advance of the department action. (Ord. 2030 § 5, 1995; Ord. 1123 § 3, 1980; Ord. 1100 § 2, 1980; Ord. 789 § 7, 1973).

18.16.110 Decision.

In the event the planning director determines the substantial development is consistent with the above criteria, the planning director shall so state in written findings, and such shall be filed with the Department of Ecology. In the event the planning director determines the substantial development is inconsistent with the above criteria the application shall be denied. Decisions of the planning director may be appealed on written filing of an appeal by an aggrieved party. Appeals of administrative decisions by the planning director shall be heard by the hearing examiner in accordance with the manner prescribed in MMC 19.44.060(2) and Chapter 2.70 MMC. The hearing examiner's decision shall be reviewed by the city council pursuant to MMC 2.70.130. (Ord. 2030 § 6, 1995; Ord. 789 § 8, 1973).

18.16.120 Subsequent hearing – Publication of notice.

Repealed by Ord. 2030. (Ord. 789 § 9, 1973).

18.16.130 Permit – Issuance.

In the event, however, no appeal is filed following the filing of the findings of the planning director, no public hearing is set, then the permit shall issue upon the terms and conditions hereinafter prescribed and as prescribed by the planning director. (Ord. 2030 § 8, 1995; Ord. 789 § 10, 1973).

18.16.140 Signing of permit.

The mayor and the city clerk shall sign the permit, and upon such the same shall be deemed issued. (Ord. 789 § 11, 1973).

18.16.150 Commencement of construction – Time lapse.

No one who is issued a permit hereunder shall be authorized to commence construction until 30 days have elapsed from the date that the permit is filed with the Washington State Department of Ecology, or until all review proceedings are terminated if such proceedings were initiated within said 30-day period. (Ord. 1123 § 4, 1980; Ord. 789 § 12, 1973).

18.16.155 Time requirements of permit.

The following time requirements shall apply to all substantial development, conditional use and variance permits:

(1) Construction or substantial progress toward construction of a project for which a permit has been granted must be undertaken within two years after the approval of the permit. Substantial progress toward construction shall include, but not be limited to, the letting of bids, making of contracts, purchase of materials involved in development, but shall not include development or uses which are inconsistent with the Shoreline Management Act or the city's master program. In determining the running of the two-year period hereof, there shall not be included the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue; provided, that the city council may, in its discretion, extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

(2) If a project for which a permit has been granted has not been completed within five years after the approval of the permit by the city, the city hearing examiner shall review the permit and, upon a showing of good cause, do either of the following:

(a) Extend the permit for one year; or

(b) Terminate the permit.

Provided, that the running of the five-year period shall not include the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue; provided further, that nothing herein shall preclude the city from issuing permits with a fixed termination date less than five years. (Ord. 2030 § 9, 1995; Ord. 1197 § 1, 1981).

18.16.160 Scope of chapter.

Nothing in this chapter shall authorize the issuance of a permit upon conditions or terms which are specifically contrary to the laws of the state of Washington. (Ord. 789 § 13, 1973).

18.16.170 Burden of proof.

All applicants for permits shall have the burden of proving that a proposed development is consistent with the criteria which must be met before the permit is issued. (Ord. 789 § 14, 1973).

18.16.180 Permit rescinded.

Any permit issued hereunder may be rescinded by the city council upon a finding that a permittee has not complied with the conditions of a permit, subject however to a hearing as hereinafter provided. (Ord. 789 § 15, 1973).

18.16.190 Rescission – Hearing.

Before such permit is rescinded by the council, the council shall set a date for a public hearing to determine whether the permittee has not complied with the conditions of the permit. This hearing will be held at such time as deemed appropriate by the council, and upon notice to the permittee by mailing such to permittee's address as shown on the application, by posting one notice at the development, and by notice in a newspaper of general circulation within the city at least 10 days prior to the hearing. (Ord. 789 § 16, 1973).

18.16.200 Mayor's authority.

The mayor shall have the authority to immediately stop any work under a permit which the mayor believes, in good faith, is not in compliance with the permit and is likely to cause immediate and irreparable harm. Upon such a stop order being issued, the permittee shall immediately cease and desist such portion of the development which is ordered stopped by the mayor, but may continue working on the other portions of the development. As soon as it is practical thereafter, a hearing will be held before the council of the city to determine whether the conditions of the permit were being violated, and if so, whether to cancel the permit or determine what other action should be taken. Notice of hearing shall be in the form and manner prescribed hereinabove as to a hearing on cancellation of a permit. (Ord. 789 § 17, 1973).

18.16.210 Conditional shoreline development permits – Generally.

The hearing examiner shall have the authority to hear and make findings, conclusions and recommendations, and the city council shall have the authority to grant, in appropriate cases and subject to appropriate conditions and safeguards, conditional shoreline development permits as authorized by this chapter. The application for a conditional shoreline development permit shall be made on forms prescribed by the planning department and shall be processed pursuant to the rules of the hearing examiner. Review will be for purposes of determining consistency with:

(1) The legislative policies stated in RCW 90.58.020, the Shoreline Management Act;

(2) The Shoreline Management Waste Program of the city of Marysville.

Notice of public hearings shall be published in the same manner as provided in MMC 18.16.100. (Ord. 2030 § 10, 1995; Ord. 859 § 5, 1975).

18.16.220 Conditional shoreline development permits – Criteria.

The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020. Conditional use permits may also be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. The criteria for granting conditional use permits is the following:

(1) The uses which are classified or set forth in the master program as conditional uses may be authorized provided the applicant can demonstrate all of the following:

(a) That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the master program;

(b) That the proposed use will not interfere with the normal public use of public shorelines;

(c) That the proposed use of this site and design of the project will be compatible with other permitted uses within the area;

(d) That the proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located;

(e) That the public interest suffers no substantial detrimental effect.

(2) Other uses which are not classified or set forth in the master program may be authorized as conditional uses provided that the applicant can demonstrate, in addition to the criteria set forth in subsection (1) of this section, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program.

(3) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests or like actions in the area. (Ord. 1197 § 3, 1981; Ord. 859 § 6, 1975).

18.16.230 Imposition of conditions.

To ensure compliance with the criteria stated in MMC 19.64.060 the hearing examiner shall have the authority to recommend and the city council shall have the authority to require and approve a specific plan for a proposed use, to impose performance standards that make the use compatible with other permitted uses within the area, and to increase the requirements set forth in this chapter which are applicable to the proposed use. In no case shall the city have the authority to decrease the requirements of this chapter when considering an application for a conditional shoreline development permit; any such decrease shall only be granted upon the issuance of a variance. (Ord. 2030 § 11, 1995; Ord. 859 § 7, 1975).

18.16.235 Subsequent hearing – Publication of notice.

At the city council meeting following the filing of such findings by the hearing examiner, the city council, on its own initiative or on request of an aggrieved party, whether the applicant or any other individual, may set another hearing date by giving notice in the newspaper and by mail in the manner prescribed for the hearing examiner, and at such public hearing determine on the merits whether the development is consistent with the criteria referenced in MMC 18.16.210. If at such hearing the majority of the council determines that such development satisfies the criteria, then a permit shall issue upon the terms and conditions hereinafter prescribed and prescribed by the council. (Ord. 2030 § 12, 1995).

18.16.240 Compliance with conditions.

(1) Where plans are required to be submitted and approved as part of the application for a conditional shoreline development permit, modifications of the original plans may be made only after a review has been conducted by the hearing examiner and approval granted by the city council.

(2) In the event of failure to comply with the plans approved by the city or with any conditions imposed upon the conditional shoreline development permit, the permit shall immediately become void and any continuation of the use activity shall be construed as being in violation of this chapter and a public nuisance. (Ord. 2030 § 13, 1995; Ord. 859 § 8, 1975).

18.16.250 Variances – Generally.

The hearing examiner shall have authority to act upon, and the city council shall have authority to grant, variances from the substantive requirements of this chapter. The application for a variance shall be made on forms prescribed by the hearing examiner and shall be processed and acted upon in the same manner as is provided for conditional shoreline development permits under this title. If a variance application is not merged with a pending substantial development permit application, the applicant shall pay the city a fee of $500.00. All

variances issued by the city must be submitted to the Department of Ecology for its approval or disapproval. (Ord. 2030 § 14, 1995; Ord. 1123 § 5, 1980; Ord. 859 § 9, 1975).

18.16.260 Variances – Criteria.

The purpose of a variance is strictly limited to granting relief to specific bulk, dimensional or performance standards set forth in the master program where there are extraordinary or unique circumstances relating to the properties such that the strict implementation of the master program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. The criteria for granting variances shall be the following:

(1) Variances should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances should be shown, and the public interest shall suffer no substantial detrimental effect.

(2) Variances for development that will be located landward of the ordinary high-water mark may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards as set forth in the master program precludes or significantly interferes with a reasonable permitted use of the property;

(b) That the hardship is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features in the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

(c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation;

(d) That the variance authorized does not constitute a grant of special privilege not enjoyed by other property in the area, and will be the minimum necessary to afford relief;

(e) That the public interest will suffer no substantial detrimental effect.

(3) Variances for development that will be located waterward of the ordinary high-water mark may be authorized provided the applicant can demonstrate all of the criteria specified in subsection (2) of this section, and provided that he can demonstrate that the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

(4) In the granting of all variances, consideration shall be given to the cumulative impact of additional requests or like actions in the area. (Ord. 1197 § 4, 1981; Ord. 859 § 10, 1975).

18.16.265 Revisions to permit.

When an applicant seeks to revise a substantial development, conditional use or variance permit, the city planning department shall request from the applicant detailed plans and text describing the proposed changes in the permit. If the planning staff determines that the proposed changes are within the scope and intent of the original permit, the revision shall be automatically approved. "Within the scope and intent of the original permit" means the following:

(1) No additional over-water construction will be involved;

(2) Lot coverage and height may be increased a maximum of 10 percent from provisions of the original permit; provided, that revisions involving new structures not shown on the original site plan shall require a new permit;

(3) Landscaping may be added to a project without necessitating an application for a new permit:

(4) The use authorized pursuant to the original permit is not changed;

(5) No additional significant adverse environmental impact will be caused by the project revision.

If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the city shall require the applicant to apply for a new substantial development, conditional use or variance permit, as appropriate, in the manner provided for herein. (Ord. 1197 § 2, 1981).

18.16.270 Nonconforming uses.

The provisions of Chapter 19.40 MMC, and all duly enacted amendments thereto, now or hereafter, are incorporated in this chapter as though fully set forth in this chapter. All references to provisions contained in the zoning code shall be construed as referring to the master program established by this chapter, and all references to zoning districts and classifications shall be construed as referring to environments established by this chapter. (Ord. 859 § 11, 1975).

18.16.275 Streamside protection zone.

(1) Establishment of Zone – Purpose. A stream-

side protection zone is established along both sides of all of the following streams, or segments thereof, within the city of Marysville: Washington State Department of Fisheries stream numbers 0044 (Quilceda Creek), 0068 (Allen Creek), 0068A, 0073 (Munson Creek), 0073A, 0074 (two tributaries), Ebey Slough.

The purpose of this zone is to provide a buffer area where natural vegetation will be preserved and development will be prohibited, thereby protecting the streams from unnatural modification or intrusion, erosion, siltation and pollution and promoting and preserving natural life cycles of fish and game in and around the streams. Furthermore, this zone will preserve access to the streams for the limited purpose of maintaining the natural characteristics of the streams by approved techniques, and for other limited purposes which will have no adverse environmental impact upon the streams. This zone shall be implemented as an overlay of municipal control and regulation which is applicable in all land use categories and environmental classifications.

(2) Definition of Zone. A streamside protection zone shall extend 25 feet upland from that point in the natural contour where the topography breaks for the streambeds near as may be determined. As a guide in interpreting the definition of this zone, all parties may refer to figure 4 found on page 79 of the 1981 Marysville Area Draft Comprehensive Plan, as prepared by Snohomish County. In any cases where a break in the natural contour lines cannot be determined, the streamside protection zone shall be measured from the ordinary high water mark, which is defined as follows: That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition existed on June 1, 1971, or as it may naturally change thereafter; provided, that in any area where the ordinary high water mark cannot be found pursuant to this definition, it shall be the line of mean high water.

(3) Restrictions Within Zone. Within the streamside protection zone the following activities shall be prohibited:

(a) Construction of any structures, permanent or temporary, including fences;

(b) Construction of any on-site sewage disposal system, or other underground facilities except as provided in subsection (4) of this section;

(c) Grading, filling or other earthwork of any kind;

(d) Grazing or keeping livestock;

(e) Storage, parking, dumping or disposing of any materials, natural or unnatural, including motor vehicles, refuse, garbage, cuttings from trees, lawns and gardens, and animal wastes;

(f) Landscaping, or cutting, removing, trimming or otherwise modifying any natural vegetation which serves the function of providing shade and protection for the streamside or is a source of food or habitat for fish or game;

(g) Relocation of the natural course of the stream, or modification of the flow characteristics thereof.

(4) Developments Allowed Within Zone. Notwithstanding the above, the following developments, land uses and activities are permitted within the streamside protection zone provided that a shoreline development permit, if applicable, is first obtained from the city:

(a) Public and private utility lines and appurtenances, including underground storm drainage facilities;

(b) Public and private roads, bridges and appurtenances;

(c) Temporary private roads and bridges for the purpose of providing access to perform stream maintenance services;

(d) Activities and improvements which are necessary to maintain the natural characteristics of a stream;

(e) Unimproved trails for recreational purposes and other passive recreational uses;

(f) Public parks and recreational developments.

(5) Rehabilitation Required. The city shall require rehabilitation and replanting of natural protective vegetation within the streamside protection zone on all properties which become subject to the city's regulatory jurisdiction in connection with applications for any of the following:

(a) Subdivision;
(b) Binding site plan;
(c) Short plat;
(d) Planned residential development;
(e) Mobile home park;
(f) Building permit;
(g) Conditional use permit;
(h) Shoreline development permit.

(6) Variances. The city council shall have the authority to grant a variance from the restrictions contained in subsection (3) of this section pursuant to the procedures, filing fees and criteria specified in MMC 18.16.250 and 18.16.260 (omitting any references to the Department of Ecology). If a variance application is merged with a pending shore-

line development permit application, the applicant shall pay the city a single fee of $1,000. No variance shall be granted which is inconsistent with the policies of the Shoreline Management Act of the state of Washington and the master program of the city of Marysville.

(7) Nonconforming Uses. Any uses, developments or activities existing within the streamside protection zone on the date the zone becomes applicable to the subject property, and which were in full compliance with all codes and regulations of the city or other applicable jurisdiction at the time, shall be regarded as nonconforming uses. The uses, developments and activities may be continued for a period of two years thereafter if properly repaired, maintained and actively utilized. At the end of said period, they shall be removed, at the owner's cost, and the streamside protection zone shall be brought into conformity with this section; provided, that grazing or keeping livestock, landscaping, and permanent structures (excluding fences), which constitute nonconforming uses may continue beyond the two-year period in accordance with the terms and provisions of Chapter 19.40 MMC. No nonconforming use, development or activity within a streamside protection zone shall be replaced, expanded or intensified in any manner whatsoever.

(8) Exemption. All commercial and industrial uses, developments and activities which abut Ebey Slough and which exist within the streamside protection zone on the effective date of said zone, shall be exempt from the restrictions of the zone until one of the following occurs:

(a) The use, development or activity is terminated, discontinued or abandoned for a period of at least 12 consecutive months; or

(b) The improvements are destroyed or demolished to an extent where restoration costs would exceed 75 percent of the assessed value; or

(c) The use of the property is changed to a new occupancy classification under the Uniform Building Code. (Ord. 2030 § 15, 1995; Ord. 1350, 1984).

18.16.280 Violation – Penalty.

In addition to incurring civil liability, any person found to have willfully engaged in activities on the shorelines within the city in violation of the provisions of this chapter or any of the master programs, rules or regulations adopted pursuant thereto, shall be guilty of a misdemeanor, and shall be punished by fine not to exceed $300.00, or by imprisonment not to exceed 60 days, or by both such fine and imprisonment. (Ord. 789 § 19, 1973).

Chapter 18.20

PROCEDURES AND POLICIES FOR IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT[1]

(Repealed by Ord. 2131)

1. See Chapter 19.22 MMC.

Chapter 18.24

MITIGATION OF IMPACTS RESULTING FROM DEVELOPMENT PROPOSALS

Sections:

18.24.010 Policy.
18.24.020 Projects subject to mitigation requirements.
18.24.030 Mitigation requirements identified.
18.24.040 Mitigation of adverse impacts.
18.24.045 Recovery contracts.
18.24.050 Credit against mitigation assessment for dedication of land.
18.24.060 Credits for public work on regional improvements.
18.24.070 Use of mitigation assessments.
18.24.080 Appeals to the city council.

18.24.010 Policy.

It is the policy of the city of Marysville to implement the State Environmental Policy Act, RCW 43.21C, and the State Subdivision Code, RCW 58.17, by requiring the proponent of any subdivision, rezone, project or development to mitigate any and all impacts directly resulting from the same which adversely affect the environment for the public health, safety or welfare. Mitigation measures, including dedication of property to public use and voluntary payments into the city's growth management fund shall be a material consideration in the approval, modification or denial of all such proposals. (Ord. 1251 § 4, 1982).

18.24.020 Projects subject to mitigation requirements.

All subdivisions, rezones, projects and developments (hereinafter collectively referred to as "projects") which are found by the responsible official of the city of Marysville, the hearing examiner or city council to directly result in adverse environmental impacts or to adversely affect the public health, safety or welfare (hereinafter referred to as "adverse impacts"), shall be required to mitigate such impacts as a condition of receiving city approval to proceed with the project; provided, that mitigation requirements shall not apply to categories of projects which are exempt under WAC 197-10-170, except for short plats, duplexes and triplexes, the exemption for which is repealed for the purposes of this chapter. (Ord. 2030 § 18, 1995; Ord. 1251 § 4, 1982).

18.24.030 Mitigation requirements identified.

The city legislative or administrative authority issuing the project approval shall determine and identify those adverse impacts which will directly result from the proposed project, and shall determine and identify required mitigation of the same. Such mitigation may include dedication of land or easements within the proposed project. It must be established that each mitigation requirement is reasonably necessary as a direct result of the project. (Ord. 1251 § 4, 1982).

18.24.040 Mitigation of adverse impacts.

The city legislative or administrative authority issuing the project approval shall condition the same upon satisfactory mitigation of all identified adverse impacts by one of the following alternative methods:

(1) The proponent may modify the project so as to avoid creating adverse impacts; or

(2) The proponent may undertake, at its own cost, to mitigate all identified adverse impacts on a time schedule agreed upon with the city legislative or administrative authority issuing the project approval; or

(3) If the city determines that the identified adverse impacts would best be mitigated on a regional basis, the city shall prepare a cost estimate for the regional capital improvements, and shall define a benefit area for the same. The city and the proponent shall negotiate the fair share of said total cost to be allocated to the proponent's project, being guided by assessment methods allowed in Chapter 35.44 RCW. A proponent may enter into an agreement with the city to pay the mitigation assessment for the project on a mutually agreed upon time schedule or may dedicate land or do public works as a credit against the mitigation assessment, as provided below.

If such mitigation is not deemed possible, practical, or in the public interest, the proposed project may be denied. (Ord. 1251 § 4, 1982).

18.24.045 Recovery contracts.

At the option of the city council, a proponent may be allowed to enter into a recovery contract with the city providing for partial reimbursement to the proponent, or its assignee, of costs of regional capital improvements required by this chapter, including design, grading, paving and installation of streets, curbs, gutters, storm drainage, sidewalks, street lighting, traffic controls and other similar improvements required by the street standards of the city, and regional storm drainage facilities. Such contracts shall be governed by the following provisions:

(1) An assessment area shall be formulated based upon a determination by the city as to which parcels of real estate adjacent to the street improvements would be required by this chapter to make similar improvements at the time development is proposed for said parcels; in the case of regional storm drainage facilities, a similar analysis shall be made with respect to all parcels within the drainage basin as defined by the city.

(2) The reimbursement share of all property owners in the assessment area shall be a pro rata share of construction and contract administration costs of the improvement project. The city shall determine the reimbursement share by using a method of cost apportionment which is based upon the benefit to each property owner from the project. There shall be no reimbursement to the proponent for the share which is allocated to its property, nor for any contributions paid by the city.

(3) A preliminary determination of area boundaries and assessments, along with a description of the property owners' rights and options, shall be forwarded by registered mail to the property owners of record within the proposed assessment area. If any property owner requests a hearing in writing within 20 days of the mailing of the preliminary determination, a hearing shall be held before the city council, notice of which shall be given to all affected property owners. The city council's ruling shall be determinative and final.

(4) The city council may, in its discretion, determine that interest shall accrue for the benefit of the proponent, or its assignee, on all unpaid assessments. In such cases the city council shall establish an interest rate and shall include it in the recovery contract.

(5) The contract, upon approval by the city council, shall be recorded in the records of the Snohomish County auditor within 30 days of such approval. A recorded contract shall constitute a lien against all real property within the assessment area which did not contribute to the original cost of the project improvements.

(6) If, within a period of 15 years from the date the contract was recorded, any property within the assessment area applies for development rights which implement the requirements of this chapter, the lien for payment of said property's proportionate share, plus accrued interest, shall become immediately due and payable to the city as a condition of receiving development approval.

(7) All assessments and interest collected by the city pursuant to a recovery contract shall be paid to the original party constructing the improvement, or his personal representative, successors or

assigns, within 30 days after receipt by the city, less an administrative charge of $50.00 for each collection. (Ord. 1598, 1988; Ord. 1296, 1983).

18.24.050 Credit against mitigation assessment for dedication of land.

At the option of the city council, a proponent may be allowed or required to dedicate land, or cause land to be dedicated, to the city for public purposes. In such a case, the proponent shall be granted a credit against any part or all of the mitigation assessment referred to above, to the extent of the appraised value of the land which is dedicated. The implementation of this credit shall be in accordance with the following criteria:

(1) Dedication of land shall only be required or accepted by the city upon a finding that it is reasonably necessary as a direct result of the proposed project, and will tend to mitigate adverse impacts of the project.

(2) No credit shall be given for dedication of land for public road right-of-way located on the subject property or which abuts the same or otherwise provides direct access to the subject property.

(3) In evaluating a specific parcel of land for dedication, the city shall consider the following factors:

(a) Compatibility of the land with the city's then-current comprehensive plan for public facilities;

(b) Topography, geology, access and location of the land, as the same relate to its effective development and use for public purposes;

(c) The proximity of the land to preexisting property under public ownership;

(d) The proximity of the land to existing and foreseeable population concentrations;

(e) The possibility of combining the land with abutting properties which are presently under public ownership or are anticipated for future acquisition;

(f) The environmental and economic impact of developing and using the land for public purposes;

(g) The fair market value of the land;

(h) The extent, if any, which dedication of the land to the public would unreasonably interfere with the private development and use of abutting properties.

(4) If either the city or the proponent desire to pursue the option of land dedication, they shall, by mutual agreement, retain the services of a qualified appraiser who shall investigate and report to the parties the appraised value of the subject land. The cost of the appraisal shall be borne equally by the city and the proponent. Within 30 days from the date of the appraisal report, the city shall notify the proponent of its decision whether the dedication will be required/allowed as a condition of project approval.

(5) In the event the city requires/allows dedication, the owner of the property shall deed or dedicate the same to the city with a warranty of clear title, as a condition of receiving final approval of the project.

(6) The proponent shall be given a credit against the mitigation assessment referred to above which is equal to the appraised value of the dedicated land.

(7) The city shall have complete discretion with respect to the use of the dedicated land, and the schedule for the development of the same; provided, that any such use or development shall be consistent with all applicable laws of the city, state and federal governments. (Ord. 1251 § 4, 1982).

18.24.060 Credits for public work on regional improvements.

In any case where a proponent requests permission to develop, at its own cost, a regional improvement to the public street system, park and recreational facilities, storm drainage and flood control facilities, or public safety facilities, which are located either on the subject property or off site and which would contribute to mitigation of identified adverse impacts resulting from the project, the city may, in its sole discretion, grant permission to the proponent to perform such public work, and the value of the same shall be credited against the mitigation assessment for the project. The value of such work shall be determined by the city engineer and shall be consistent with the probable cost of such work if it were put out for public bid. In authorizing such public work, and in granting a credit against the mitigation assessment, the city council must find that said work is in the public interest and meets the following standards:

(1) The public work must be a regional improvement which is provided for and anticipated in the city's comprehensive plan; no credit shall be allowed for construction of local access streets within the subject property or which abut the same or otherwise provide direct access to the subject property.

(2) The public work must be directly related to the mitigation of impacts created or contributed to by the project.

(3) The timing for the development of the public work must be consistent with the long-range scheduling for such development by the city.

(4) The proponent or its contractor must demonstrate its financial and professional ability to perform the project in a workmanlike manner and in compliance with all specifications for the project and all governmental regulations relating thereto.

(5) The proponent or its contractor shall be required to comply with all bonding and warranty requirements otherwise applicable to public works.

(6) The proponent or its contractor shall be required to deposit with the city cash in a sum equal to the public work contract retainage requirement specified in RCW 60.28.010. Said deposit shall be subject to all provisions contained in Chapter 60.28 RCW.

(7) The proponent shall deed and convey the completed project and facilities to the city, for no cost, as a condition of receiving final approval of the development or construction in question. (Ord. 1251 § 4, 1982).

18.24.070 Use of mitigation assessments.

All mitigation assessments paid to the city under this chapter shall be deposited in the growth management fund established under Chapter 3.12 MMC, and shall be held and used subject to the following provisions:

(1) Mitigation assessments paid by a proponent may only be expended by the city on capital improvements agreed upon between the proponent and the city which are designed to mitigate impacts directly resulting from the proposed project.

(2) Mitigation assessments shall be expended for such purposes within five years after the date of payment to the city.

(3) Any mitigation assessment not so expended shall be refunded with interest at the rate then established by state law as applying to judgments. The refund shall be made to the property owner of the subject property who is of record at the time of the refund; provided, that if the mitigation assessment is not expended within the five-year period due to delay attributable to the proponent, or its successors or assigns, the mitigation assessment shall be refunded without interest. (Ord. 1251 § 4, 1982).

18.24.080 Appeals to the city council.

Any proponent aggrieved by the amount of a mitigation assessment, or by a determination requiring the dedication of land, may appeal the same to the city council by filing a written notice of appeal with the city clerk within 20 days from the date thereof. The city council shall hold a hearing on such appeal within 30 days after the date on which the notice of appeal was filed. Notice of the time and place of the hearing shall be mailed to the proponent. At the hearing the proponent shall be entitled to be heard and introduce evidence on its own behalf. The city council shall thereupon make a final decision on the matter and shall advise the proponent of the same in writing. (Ord. 1251 § 4, 1982).

Chapter 18.28

SENSITIVE AREAS MANAGEMENT[1]

(Repealed by Ord. 2131)

1. See Chapter 19.24 MMC.

Title 18A

PARKS, RECREATION, OPEN SPACE AND TRAIL IMPACT FEES AND MITIGATION

Chapters:

18A.04 Parks, Recreation, Open Space and Trail Impact Fees and Mitigation

Chapter 18A.04

PARKS, RECREATION, OPEN SPACE AND TRAIL IMPACT FEES AND MITIGATION

Sections:

18A.04.010 Authority.
18A.04.020 Purposes.
18A.04.030 Payment of impact fees required.
18A.04.040 Exemptions to the requirement to pay impact fees.
18A.04.050 Computing required impact fees using adopted impact fee schedules.
18A.04.060 Computing required impact fees based on an independent fee calculation study.
18A.04.070 Credits and adjustments to required impact fee payments.
18A.04.080 Appeals and payments under protest.
18A.04.090 Impact fee accounts and disbursements.
18A.04.100 Impact fee refunds.
18A.04.110 Annual impact fee report.
18A.04.120 Periodic review of fee schedules.
18A.04.130 Formula for determining park, recreation, open space or trail impact fees.
18A.04.140 Severability.
18A.04.150 No special duty created.
18A.04.160 Emergency.

18A.04.010 Authority.

This title is adopted under RCW 82.02.050(2) which authorizes cities planning under the Growth Management Act, primarily codified at Chapters 36.70A and 82.02 RCW, to assess, collect, and use impact fees to pay for park, recreation, open space and trail facilities needed to accommodate growth. The city of Marysville is required to plan under the Growth Management Act and has adopted a comprehensive plan, which includes a capital facilities element which complies with RCW 36.70A.070 (3), 82.02.050(4), and all other applicable requirements. Consequently, the city of Marysville is authorized to impose, collect, and use impact fees. (Ord. 2300 § 3, 1999).

18A.04.020 Purposes.

The purpose of this title is to implement the capital facilities element of the Marysville comprehensive plan and the Growth Management Act by:

(1) Ensuring that adequate park, recreation, open space and trail facilities are available to serve new development.

(2) Maintaining the high quality of life in Marysville by ensuring that adequate facilities are available to serve growth thereby providing for the needs of new growth and maintaining existing service levels for present businesses and residents.

(3) Establishing standards and procedures whereby new development pays its proportionate share of the costs of park, recreation, open space and trail facilities; reducing transaction costs for both the city and developers; and ensuring the developments are not required to pay arbitrary or duplicative fees. (Ord. 2300 § 3, 1999).

18A.04.030 Payment of impact fees required.

Any person who applies for a building permit for any development activity or who undertakes any development activity shall pay the impact fees set in MMC 18A.04.060 or 18A.04.070 to the city of Marysville finance department or its designee. No new building permit shall be issued until the required impact fees have been paid to the city of Marysville finance department or its designee or successor. Where a building permit is not required for a development activity, the impact fees shall be paid to the city of Marysville finance department or its designee before undertaking the development activity. (Ord. 2300 § 3, 1999).

18A.04.040 Exemptions to the requirement to pay impact fees.

(1) The following are excluded from the requirement to pay some or all of the required impact fees:

(a) The reconstruction, remodeling, or replacement of existing buildings, structures, mobile homes, or manufactured homes, which does not result, for nonresidential structures, in additional floor space or, for all structures, additional dwellings. A complete application for a building permit to replace or reconstruct an existing structure that was removed or destroyed shall be submitted within three years after the structure was removed or destroyed in order for the exemption to apply.

(b) The construction of structures accessory to a residence are exempt from the requirement to pay all impact fees. Nonresidential accessory structures are not exempt from the requirement to pay impact fees. The construction of any accessory structures which will result in additional dwelling units, including accessory dwelling units, requires the payment of impact fees.

(c) Parking garages and building space which is constructed solely to park motor vehicles which are not owned, leased or rented by a busi-

ness or part of a stock in trade are exempt from the requirement to pay all impact fees. The conversion of parking garages or vehicle parking areas to other uses identified in MMC 18A.04.060(2) requires the payment of impact fees.

(d) Temporary uses and structures authorized by Chapter 19.44 MMC are exempt from the requirement to pay all impact fees.

(e) The property on which the development activity will take place is exempt from the payment of park, recreation, open space or trail facilities impact fees under RCW 82.02.100 because the property is part of a development activity which mitigated its impacts on the same system improvements under the State Environmental Policy Act (SEPA).

(f) The development activity shall not be required to pay impact fees for a facility type because: (i) the impact of the development activity for park, recreation, open space or trail facilities has been mitigated by a voluntary agreement; mitigated State Environmental Policy Act (SEPA) determination; SEPA EIS; permit or approval condition which requires the payment of fees consistent with the fees imposed by this title for park impacts; the dedication of land in lieu of a fee for parks, recreation and trail improvements; or the construction or improvement of parks, recreation, open space or trails in lieu of a fee; and (ii) the SEPA, permit or approval condition predates the effective date of the ordinance codified in this chapter. If the condition or requirement does not provide that the improvements substitute for impact fees, then the development activity is not exempt. To be exempt from the payment of park facilities impact fees, the voluntary agreement, mitigated SEPA determination, permit or approval condition shall provide for a payment, dedication, or construction of park facility improvements. Where a development activity has not filed a complete building permit application before the effective date of this chapter, the development activity shall pay any payment under the same terms as an impact fee but in the amount specified by the voluntary agreement, mitigated SEPA determination, permit or approval condition as a condition of being exempt from the requirement to pay mitigation fees. Unless the voluntary agreement, permit condition or approval condition requires payment when the building permit is applied for or issued, the planning director may extend the payment date from before the issuance of a building permit to some later date for development activities required to pay under this exemption.

(g) Accessory dwellings approved by the city under Chapter 19.34 MMC.

(2) Any claim of exemption shall be made no later than the time of application for a building permit. If a building permit is not required for the development activity, the claim shall be made when the fee is tendered. Any claim not made when required by this section shall be deemed waived. (Ord. 2300 § 3, 1999).

18A.04.050 Computing required impact fees using adopted impact fee schedules.

At the option of the person applying for a building permit or undertaking development activity, the amount of the impact fees shall be determined by the fee schedules in this section.

(1) When using the impact fee schedules, the impact fees shall be calculated by using the following formula:

Number of units of each use	x	Impact fee amount for a facility type	=	Amount of impact fee that shall be paid for that facility type for that use

(a) The number of units of each use shall be determined as follows: (i) for residential uses it is the number of housing units for which a building permit application has been made; and (ii) for office, retail, or manufacturing uses it is the gross floor area of building(s) to be used for each use expressed in square feet divided by 1,000 square feet. If uses other than parking vehicles which does not constitute a stock in trade and uses accessory to residences will take place outside of buildings, the calculations shall include the land area on which these uses will take place.

(b) Using the formula in subsection (1) of this section, impact fees shall be calculated separately for each use and each facility type. The impact fees that shall be paid are the sum of these calculations.

(c) If a development activity will include more than one use in a building or on a site, then the fee shall be determined using the above schedule by apportioning the space committed to the various uses specified on the schedule.

(d) If the type of use or development activity is not specified on the impact fee schedules in this section, the planning director shall use the impact fee applicable to the most comparable type of land use on the fee schedules. The planning director shall be guided in the selection of a comparable type by the most recent Standard Industrial Code Manual and the Marysville development code. If the planning director determines that there is no comparable type of land use on the above fee

schedule then the planning director shall determine the proper fee by considering demographic or other documentation which is available from state, local, and regional authorities.

(e) In the case of a change in use, development activity, redevelopment, or expansion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee based on either the number of dwelling units or square feet of commercial or industrial area for the new development activity as compared to the previous development activity. The planning director shall be guided in this determination by the sources and agencies listed above.

(2) Park, Recreation, Open Space or Trail Facility-Type Impact Fee Schedule.

Land Use	Units	Impact Fee That Shall Be Paid per Unit or S.F.
Single-family residences (including mobile/manufactured homes, duplexes and attached single-family homes)	1 housing unit	$ 963.00
Multifamily residences	1 housing unit	$ 681.00

Note: Land uses are defined in MMC Title 19.
(Ord. 2344 § 1, 2000; Ord. 2300 § 3, 1999).

18A.04.060 Computing required impact fees based on an independent fee calculation study.

If a person required to pay impact fees decides not to have the impact fees determined according to MMC 18A.04.060, then the person shall prepare and submit to the director an independent fee calculation study for the proposed development activity. Any person can decide to have an independent fee calculation study for one or more impact fees and use the impact fee schedules in MMC 18A.04.060 for one or more impact fees.

(1) Any person submitting an independent impact fee calculation study shall include the fee set by the city council for reviewing independent impact fee calculation studies. This fee may be set by ordinance or resolution.

(2) The independent fee calculation study shall comply with the following standards:

(a) The study shall follow accepted impact fee assessment practices and methodologies and shall be consistent with this ordinance and Chapter 82.02 RCW.

(b) The study shall use data sources which are acceptable to the planning director, including the city's capital facilities element and the data shall be comparable with the uses and intensities proposed for the proposed development activity.

(c) The study shall comply with the applicable state laws governing impact fees including RCW 82.02.060 or its successor.

(d) The study, including any data collection and analysis, shall be prepared and documented by professionals qualified in their respective fields.

(e) The study shall show the basis upon which the independent fee calculation was made,

(3) The planning director shall consider the study and documentation submitted by the person required to pay the impact fees, but is not required to accept the study if the planning director determines that the study is not accurate or reliable. The planning director may, in the alternative, require the person submitting the study to submit additional or different documentation for consideration. If the director decides that outside experts are needed to review the study, the applicant shall be responsible for paying for the reasonable cost of a review by outside experts. If an acceptable independent fee calculation study is not presented, the person shall pay the impact fees based upon the process and schedules in MMC 18A.04.060. If an acceptable independent fee calculation study is presented, the fee may be adjusted to that appropriate to the particular development activity. (Ord. 2300 § 3, 1999).

18A.04.070 Credits and adjustments to required impact fee payments.

(1) Credits. Required impact fees shall be reduced by the following credits when applicable:

(a) The required park, recreation, open space or trail facilities impact fees shall be reduced by the amount of any payment for park, recreation, open space or trail facilities system improvements previously made for the lot on which the development activity will take place either as a condition of approval or under a voluntary agreement with the city entered into after the effective date of the ordinance codified in this chapter.

(b) After the effective date of the ordinance codified in this chapter, whenever a development is granted approval subject to a condition that the developer actually provide sites, facilities, or improvements for parks, recreation, open space, or trails acceptable to the city, or whenever the developer has agreed, pursuant to the terms of a voluntary agreement with the city, to provide land, parks capital facilities, or to improve existing facilities, the

developer shall be entitled to a credit for up to the value of the land or up to the actual cost of construction against the impact fee that would be chargeable under MMC 18A.04.060 or 18A.04.070,

(i) The land value or cost of construction shall be estimated at the time of approval and shall be based on acceptable evidence and documentation. The evidence and documentation shall be reviewed and, if acceptable, approved by the planning director. When land is proposed for dedication, the person required to pay impact fees shall present either an MAI appraisal or evidence of the assessed value as determined by the county assessor's office. If construction costs are estimated, the documentation shall be confirmed after the construction is completed to assure that an accurate credit amount is provided. If the land value or construction cost is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee for the facility for which the land, system facilities, or improved system facilities where provided.

(ii) In certain cases a park, recreation, open space or trail system improvement may function as a project improvement. Where a system improvement functions as a project improvement, the person who is required to pay impact fees shall only receive a credit for the amount of the improvement that functions as a parks, recreation, open space or trail system improvement.

(c) The amount of the credit for a development activity shall not exceed the amount of the impact fee the development activity is required to pay.

(d) If a development activity includes construction of park, recreation, open space or trail facilities which meet the requirements of this subsection, then the applicant shall be entitled to a credit for that portion of the park, recreation, open space or trail facilities impact fee to be used for that park, recreation, open space or trail facility-type to the extent that the park, recreation, open space or trail system satisfies the needs of the occupants of the development activity and the public.

(i) The credit shall equal:

(A) The reduction in demand by occupants of the development on the city's park, recreation, open space or trail system, that is met by the facility.

(B) The reduction in demand by the general public on the city's park, recreation, open space or trail system, that is met by the facility, if the facility is open to the general public and signs at the facility notify the public that they can use the facility. To be eligible for the credit in this subsection, the facility shall be located in an area which, based upon adopted level-of-service standards, is lacking in needed park, recreation, open space or trail facilities. Credit under this subsection shall not be given for the portion of any facility which provides a higher level-of-service than that set by the level-of-service standard for that facility.

(ii) The park, recreation, open space or trail facilities shall meet the following criteria to be eligible for a credit:

(A) The area or facility shall function as a park, recreation, open space or trail system improvement and not a project improvement as defined by this chapter, either because it is a system improvement or because it is a project improvement which relieves demand on the city's park, recreation, open space or trail system.

(B) The facilities shall be equivalent to Marysville's adopted standards for park, recreation, open space or trail facilities.

(C) The park, recreation, open space or trail shall be large enough to function as that type of park, recreation, open space or trail system to obtain a credit.

(D) The city may require that legally binding covenants be recorded in the real property records providing that the facility shall be used by the facility's occupants or the general public. If these facilities are closed or converted to another use, the amount of the credit in current dollars shall be paid to the Marysville finance department or its designee or successor before the facilities are closed or converted.

(2) Adjustments. The director may adjust the required impact fees where the director determines one of the following circumstances exists and the discount included in the impact fee formula fails to adjust for the error in the calculation or to ameliorate the unfairness of the fee:

(a) The person required to pay the impact fee demonstrates that an impact fee was incorrectly computed.

(b) The person required to pay the impact fee demonstrates that unusual circumstances make the standard impact fee applied to the development unfair or unjust. These circumstances shall not be circumstances generally applicable to similar types of land uses or generally applicable to development activities in that vicinity. Unusual circumstances may include that the development activity will have substantially less impact on the system improvement than the other development activities in the category.

(3) Any claim of a credit or adjustment shall be made no later than the time of application for a

building permit. If a building permit is not required for the development activity, the claim may be made when the fee is tendered. Any claim not made when required by this section shall be deemed waived. (Ord. 2300 § 3, 1999).

18A.04.080 Appeals and payments under protest.

(1) Any decision made by the planning director, his or her designee, in the course of administering this chapter may be appealed in accordance with the procedures for appealing the underlying permit and shall not be subject to a separate appeal process. This shall include the requirement to pay impact fees. Where no other appeal process is provided, an appeal may be made as an appeal of an administrative decision, pursuant to Chapter 15.11 MMC. Any errors in the formula for calculating the impact fee shall be referred to the mayor and city council for possible modification.

(2) Impact fees may be paid under written protest to obtain a building permit or other approval or permit. (Ord. 2300 § 3, 1999).

18A.04.090 Impact fee accounts and disbursements.

(1) The city of Marysville finance department shall identify the funds collected as to the person paying them, the date paid, and the type of impact fee paid. The finance department shall deposit the fees in special interest-bearing accounts. A separate account shall be established for each type of impact fee. All interest shall be retained in the account and expended for the purposes for which the impact fee was imposed. While maintaining fees in separate accounts, pooled investments may be used.

(2) Park, recreation, open space or trail impact fees shall only be expended on system improvements which are included in the capital facilities chapter of the comprehensive plan.

(3) For system improvements included in the capital facilities chapter, impact fees may be expended on facility planning; land acquisition; site improvements; application fees; necessary off-site improvements; required mitigation; construction, engineering, architectural, permitting, financing, and administrative expenses; relocatable facilities; capital equipment; repayment of system improvement costs previously incurred by the city to the extent that new growth and development will be served by the system improvements; and any other expenses which could be capitalized and are consistent with the capital facilities element.

(4) In the event that bonds or similar debt instruments are issued for the advanced provision of system improvements for which impact fees may be expended and where consistent with provisions of the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section.

(5) Impact fees shall be expended or encumbered for a permissible use within six years of the date they are received by the city of Marysville finance department unless the city council makes written findings that there exists an extraordinary and compelling reason for fees to be held longer than six years. (Ord. 2300 § 3, 1999).

18A.04.100 Impact fee refunds.

(1) All requests for impact fee refunds shall be made by the owner of the property on which the impact fee was paid and shall be made in writing. The written request shall be submitted to the city of Marysville finance department or its successor, if the city holds the funds. The written request shall be received within one year of the date the right to the claim for the refund arises. Notwithstanding any other provision of this section, where notice of eligibility of a refund is required by subsection (2)(b) of this section, the written request shall be received within one year of the date on which the city mails the notice that the person may be eligible for a refund.

(2) Refunds of Unencumbered Impact Fees.

(a) The current owner of property on which impact fees have been paid may apply for and receive a refund of these fees if the impact fees have not been expended or encumbered within the time limits in MMC 18A.04.090(5) unless the city council has extended the six-year period by finding that there is an extraordinary and compelling reason to hold such fees for a longer period. Refunds of impact fees under this subsection (2) shall include any interest earned on the impact fees by the city. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis.

(b) If the city holds impact fees beyond the time limits set in MMC 18A.04.090(5), the city shall notify potential claimants by first class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records or a commercial compendium of the tax records.

(c) Any impact fees that are not expended within the time limits in MMC 18A.04.090(5) and

for which no application for a refund has been made within the one-year period set by subsection (1) of this section shall be retained and expended on the system improvements for which the impact fees were imposed.

(3) Refunds of Impact Fees for When Development Does Not Proceed. Any person who was required to pay impact fees may request and shall receive a refund, including interest earned on the impact fees, when both of the following conditions are met:

(a) A final inspection is not requested for the building or, if no building is being constructed as part of the development activity, if the use is not started.

(b) No impact has resulted on the park, recreation, open space or trail facilities. "Impact" shall be deemed to include cases where the city has expended or encumbered the impact fees in good faith before the application for the refund. In the event that the city has expended or encumbered the fees in good faith no refund shall be given. However, if within a period of five years the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner shall request the credit in writing by the deadline set for claiming credits and shall provide receipts for the impact fees paid by the owner for a development activity of the same or substantially similar nature on the same property or some part of the property. The planning director shall determine whether to grant a credit, and a decision to deny a credit request may be appealed as an appeal of an administrative decision pursuant to Chapter 15.11 MMC.

(4) See RCW 82.02.080 or its successor for rules on the termination of impact fee requirements.

(5) The interest due on the refund of impact fees required by this chapter or RCW 82.02.080 or its successor shall be calculated according to the average rate received by the city on invested funds throughout the period during which the impact fees were retained by that local government. (Ord. 2300 § 3, 1999).

18A.04.110 Annual impact fee report.

Each year, the city of Marysville finance department shall prepare a report on each impact fee account showing the source and amount of all moneys collected, earned, or received and the system improvements that were financed in whole or in part by the impact fees. This report may be part of an existing annual report or a separate report. (Ord. 2300 § 3, 1999).

18A.04.120 Periodic review of fee schedules.

The city council shall review the fee schedules in MMC 18A.04.060 at least once every four years. (Ord. 2300 § 3, 1999).

18A.04.130 Formula for determining park, recreation, open space or trail impact fees.

(1) The park, recreation, open space or trail impact fees for MMC 18A.04.060(2) shall be the developer fee obligation (F) calculated using the formula and table in this section.

(2) The impact fee service area for park, recreation, open space or trail impact fees shall be the entire city of Marysville.

(3) Separate fees shall be calculated for single-family residences, multifamily residences, offices, retail trade, manufacturing, and other uses. For the purposes of this chapter, mobile homes or manufactured homes, duplexes and single-family attached dwellings shall be treated as single-family residences.

(4) The schedule of fees set forth in MMC 18A.04.050(2) shall be adjusted annually beginning January 1, 2001, based upon the change in the Consumer Price Index (CPI-U) for the Seattle-Everett area for the preceding 12 months for which such CPI data is available.

Formulas for Determining Park, Recreation, Open Space or Trail Impact Fees:

For assessing impacts of residential properties, the capital facility plan is used as the basis for the fee calculation.

IF:

A = Parks, recreation, open space or trails capital facility program.
B = City of Marysville contribution.
C = Percent of total park use demanded by land use category.
D = Projected growth by number of units per land use category.
F = Developer fee obligation.

THEN:

$F = [(A - B) \times C]/D$

(Ord. 2300 § 3, 1999).

18A.04.140 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 2300 § 3, 1999).

18A.04.150 No special duty created.

It is the purpose of this chapter to provide for the health, welfare and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. No provision or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended to be, nor shall be construed to create or form the basis for, any liability on the part of the city or its officers, agents and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officer, agents or employees. (Ord. 2300 § 3, 1999).

18A.04.160 Emergency.

In light of the rapid rate of development in the city of Marysville and Snohomish County and the need to provide adequate parks, recreation, open space and trail facilities to serve development, an emergency is hereby declared to exist due to the fiscal impacts of delay on the city and in order to preserve the public health, safety and welfare. (Ord. 2300 § 3, 1999).

Title 18B

TRAFFIC IMPACT FEES AND MITIGATION

Chapters:

18B.02 Findings
18B.04 Declaration of Purpose
18B.06 Relationship to Environmental Impacts
18B.08 Definitions
18B.10 Road Policy – General Provisions
18B.12 Traffic Study
18B.14 Determination and Fulfillment of Road System Obligations
18B.20 Appeals
18B.22 Severability and Duty

Chapter 18B.02

FINDINGS

Sections:
18B.02.010 Findings.

18B.02.010 Findings.

It is hereby found that the acquisition, construction, and improvement of roads to serve new developments in the city of Marysville is a major burden upon city government; that the city is experiencing a rapid, large-scale increase in intensity of land use and in population growth; that rapid growth creates large "front-end" demands for city services, including roads, and causes increased road usage; that existing and projected city funds are not adequate to meet the public's projected road needs; that failure to ensure that road improvements are made as traffic increases causes severe safety problems, impedes commerce and interferes with the comfort and repose of the public; and that the provisions of this title are necessary to preserve the legislature's intent that the city, in the exercise of reasonable discretion, retain ultimate responsibility for city services, and its financial integrity.

It is further found that the city has the power under existing law to condition development and require road improvements reasonably related to the traffic impact of a proposed development, and that it is appropriate and desirable to set out in this title what will be required of developments, and to establish hereby a uniform method of treatment for similar development impact on road systems.

It is further found that the state Growth Management Act (GMA) and RCW 36.70A.070(6)(e) require that "local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level-of-service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development" and that "For the purposes of this subsection [RCW 36.70A.070(6)], 'concurrent with development' shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years."

It is further found that this title is consistent with and implements the comprehensive plan adopted pursuant to Chapter 36.70A RCW.

It is further found that the total benefits of certain transportation demand management measures in reducing marginal trips are projected to significantly outweigh the total costs.

It is further found and declared that the regulations contained in this title are necessary for the protection and preservation of the public health, safety and general welfare. (Ord. 2279, 1999).

Chapter 18B.04

DECLARATION OF PURPOSE

Sections:
18B.04.010 Declaration of purpose.

18B.04.010 Declaration of purpose.

The purpose of this title is to ensure that public health, safety and welfare will be preserved by having safe and efficient roads serving new and existing developments by requiring all development, as defined in MMC 18B.08.020, to mitigate traffic impacts, which may include a proportionate share payment reasonably related to the traffic impact of the proposed development and construction of road improvements and dedication of rights-of-way reasonably necessary as a result of the direct traffic impact of proposed developments.

This title is intended to ensure that city policy for the provision of safe and adequate access and the allocation of responsibility for immediate or future road improvements necessitated by new development is fairly and consistently applied to all developments. The requirements of this title apply to all developments and road systems meeting the definitions of Chapter 18B.08 MMC. Mitigation of impacts on state highways, city streets or county roads will be required in accordance with the provisions of this title when the WSDOT, city or county has reviewed the development's impact under its policies adopted pursuant to Chapter 36.70A RCW or its formally designated environmental policies, as applicable, and has recommended to the city that there be a requirement to mitigate the impact; and in the event of traffic impacts on state highways or county roads there is an agreement between the city and the other affected agency or jurisdiction which specifically addresses impact identification, documentation, and mitigation, and which references the policies adopted pursuant to Chapter 36.70A RCW and environmental policies formally designated by the agency or jurisdiction as possible bases for the exercise of authority under Chapter 36.70A RCW or State Environmental Policy Act (SEPA).

This title requires the analysis and mitigation of a development's traffic impact on the public road system. In order to quantify the continuing need for road improvements on the public road system anticipated by projected growth, the public works department is authorized to develop and update a capital facilities element of the comprehensive plan based on and consistent with the comprehensive plan's transportation element. The capital facilities element shall be used in evaluating the traffic impact of developments and determining necessary mitigation of such impacts. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.06

RELATIONSHIP TO ENVIRONMENTAL IMPACTS

Sections:

18B.06.010 Relationship to environmental impacts.

18B.06.010 Relationship to environmental impacts.

The requirements of this title, together with the comprehensive plan adopted pursuant to Chapter 36.70A RCW, MMC Titles 18, 19 and 20, and other development regulations and policies that may be adopted, constitute the policy of the city under the GMA and SEPA for the review of development and the determination of significant adverse environmental impacts and imposition of mitigation requirements due to the impacts of development on the transportation system. Measures required by this title shall constitute adequate mitigation of adverse or significant adverse environmental impacts on the road system for the purposes of Chapter 19.22 MMC to the extent that the director determines the specific impacts of the development are adequately addressed by this title in accordance with Chapter 43.21C RCW as allowed by Chapter 36.70B RCW.

As a policy of the city, the provisions of this title do not limit the ability of the approving authority to impose mitigation requirements for the direct impacts of development on state highways, or county streets, where the other affected jurisdiction lies outside the road system of a development, as defined by this title; provided, that there is an agreement between the city and another affected jurisdiction which specifically addresses level-of-service standards, impact identification, documentation, and mitigation, and which references the environmental policies formally designated by the agency or jurisdiction and it is determined that an adverse environmental impact would result from the approval of a development without the imposition of such additional mitigation measures.

In accordance with RCW 43.21C.065 and 82.02.100, a person required to make a proportionate share mitigating payment under a SEPA payment program or pay an impact fee under a GMA mandatory impact fee program shall only be required to make a payment or pay a fee pursuant to either SEPA or the GMA, but not both for the same system improvements. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.08

DEFINITIONS

Sections:

18B.08.002 Approving authority.
18B.08.004 Arterial unit.
18B.08.006 Arterial unit in arrears.
18B.08.008 Capacity improvements.
18B.08.010 Capital facilities plan.
18B.08.012 Comprehensive plan.
18B.08.014 Dedication.
18B.08.016 Department.
18B.08.018 Developer.
18B.08.020 Development.
18B.08.022 Direct traffic impact.
18B.08.024 Director.
18B.08.026 Frontage improvements.
18B.08.028 Highway capacity manual.
18B.08.030 Inadequate road condition.
18B.08.032 Level-of-service (LOS).
18B.08.034 Off-site road improvement.
18B.08.036 Public agency.
18B.08.038 Road.
18B.08.040 Road system.
18B.08.042 Transportation element.
18B.08.044 Transportation service area.
18B.08.046 WSDOT.

18B.08.002 Approving authority.

"Approving authority" means the city employee, agency or official having authority to issue the approval or permit for the development involved. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.004 Arterial unit.

"Arterial unit" means a road, segment of a road, or portion of a road or a system of roads, or intersection, consistent with the level-of-service methodology adopted in the city transportation element of the comprehensive plan and consistent with the criteria established by the director, for the purpose of making level-of-service concurrency determinations. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.006 Arterial unit in arrears.

"Arterial unit in arrears" means any arterial unit operating below the adopted level-of-service standard adopted in the transportation element of the comprehensive plan, except where improvements to such a unit have been programmed in the city six-year transportation improvement program adopted pursuant to RCW 36.81.121 with funding identified that would remedy the deficiency within six years. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.008 Capacity improvements.

"Capacity improvements" means any improvements that increase the vehicle and/or people moving capacity of the road system. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.010 Capital facilities plan.

"Capital facilities plan" means all documents comprising the capital facilities element of the comprehensive plan that, for capital facilities, consists of an inventory of facilities owned by public entities, forecasts of future needs, new and expanded facilities, and a multi-year financing plan, adopted pursuant to Chapter 36.70A RCW. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.012 Comprehensive plan.

"Comprehensive plan" means the generalized, coordinated land use policy statement of the city council adopted pursuant to Chapter 36.70A RCW which may include a land use plan, a capital facilities plan, a transportation element, subarea plans and any such other documents or portions of documents identified as constituting part of the comprehensive plan under Chapter 36.70A RCW. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.014 Dedication.

"Dedication" means conveyance of land to the city for road purposes by deed or some other instrument of conveyance or by dedication on a duly filed and recorded plat or short plat. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.016 Department.

"Department" means either the city of Marysville public works or community development department, whichever department is relevant to the city action being referred to in this title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.018 Developer.

"Developer" means the person applying for or receiving a permit or approval for a development as defined in MMC 18B.08.020. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.020 Development.

"Development" means all the subdivisions, short subdivisions, industrial or commercial building permits, conditional use permits, binding site plans (including those associated with rezone applications), or building permits (including building permits for multifamily and duplex residential structures, and all similar uses), changes in occupancy and other applications pertaining to land uses: (1) requiring land use permits or approval by the city of Marysville; or (2) which are located in areas of the county or other cities and which will impact the city of Marysville's public road system; provided, that "development" does not include building permits for single-family residential dwellings, attached or detached accessory apartments, or duplex conversions, on existing tax lots. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.022 Direct traffic impact.

"Direct traffic impact" means any new vehicular trip added by new development to its road system as defined in MMC 18B.08.040. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.024 Director.

"Director" means the director of the city of Marysville department of either public works or community development or his/her authorized designee, whichever director is relevant to the city action being referred to in this title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.026 Frontage improvements.

"Frontage improvements" means improvements on roadways abutting a development and tapers thereto required as a result of a development. Generally, frontage improvements shall consist of appropriate base materials; curb, gutter, sidewalk; storm drainage improvements; bus pullouts and waiting areas where necessary; bicycle lanes and bicycle paths where applicable; and lane improvements. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.028 Highway capacity manual.

"Highway capacity manual" means the current Highway Capacity Manual, Transportation Research Board, National Research Council, 2101 Constitution Avenue, Washington, D.C.; amendments thereto; and any supplemental editions or documents published by the Transportation Research Board adopted by the U.S. Department of Transportation, Federal Highway Administration. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.030 Inadequate road condition.

"Inadequate road condition" means any road condition, whether existing on the road system or created by a new development's access or impact on the road system, which jeopardizes the safety of road users, including nonautomotive users, as determined by the city engineer in accordance with the department policy and procedure for the deter-

mination of inadequate road conditions. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.032 Level-of-service (LOS).

"Level-of-service (LOS)" means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. Level-of-service standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with level-of-service A representing the best operating condition, and level-of-service F the worst. For the purposes of this title, level-of-service will be measured only on arterial units. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.034 Off-site road improvement.

"Off-site road improvement" means improvement, except a frontage improvement, to an existing or proposed city or county road outside the boundaries of a development, which improvement is required or recommended in accordance with this title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.036 Public agency.

"Public agency" means any school district, public water, sewer or utility district; fire district; airport district; public transportation benefit area; or local government agency seeking a land use permit or approval reviewed under this title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.038 Road.

"Road" means an open, public way for the passage of vehicles that, where appropriate, may include pedestrian, equestrian and bicycle facilities. Limits include the outside edge of sidewalks, or curbs and gutters, paths, walkways, or side ditches, including the appertaining shoulder and all slopes, ditches, channels, waterways, and other features necessary for proper drainage and structural stability within the right-of-way or access easement. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.040 Road system.

"Road system" means those existing or proposed public roads, whether state, county or city (including freeway interchanges with county roads or city streets and the ramps for those interchanges but excluding freeway mainlines), within the transportation service area. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.042 Transportation element.

"Transportation element" means the element of the city comprehensive plan that for transportation consists of goals and policies, an inventory of facilities and services, adopted level-of-service standards, an analysis of deficiencies and needs, system improvements and management strategies and a multi-year financial plan, adopted pursuant to Chapter 36.70A RCW. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.044 Transportation service area.

"Transportation service area" means a geographic area of the city, as defined in the transportation element, identified for the purpose of evaluating the transportation impacts of development, determining proportionate shares of needed transportation improvements and allocating revenue to transportation improvement projects. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.08.046 WSDOT.

"WSDOT" means the Washington State Department of Transportation. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.10

ROAD POLICY – GENERAL PROVISIONS

Sections:

18B.10.010 Applicability to development – General.
18B.10.020 Director's recommendation, approval.
18B.10.030 Excessive expenditure of public funds.
18B.10.040 Development mitigation obligations.
18B.10.050 Road system capacity requirements.
18B.10.060 Level-of-service standards.
18B.10.070 Inadequate pre-existing road conditions.
18B.10.080 Frontage improvements.
18B.10.090 Access and transportation circulation requirements.
18B.10.100 Right-of-way requirements.
18B.10.110 State highways, cities, and counties.
18B.10.120 Director authorization for administrative policies and technical procedures.
18B.10.130 Development permit application completeness.

18B.10.010 Applicability to development – General.

Any application for approval of a permit for a development in the city of Marysville is subject to the provisions of this title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.020 Director's recommendation, approval.

(1) In approving or permitting a development, the approving authority shall consider the director's recommendations and act in conformity with this title.

(2) The director shall only recommend approval of a development if, in the director's opinion, adequate provisions for public roads, access, and mitigation of the transportation impacts of the development are made as provided in the city's development regulations, SEPA, and this title.

(3) The director shall only recommend approval of a development if the development is deemed to be concurrent in accordance with MMC 18B.14.040. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.030 Excessive expenditure of public funds.

If the location, nature, and/or timing of a proposed development necessitates the expenditure of public funds in excess of those currently available for the necessary road improvement or inconsistent with priorities established to serve the general public benefit, and provision has not otherwise been made to meet the mitigation requirements as provided in this title, the city may refuse to approve or grant a permit for development. As an alternative, the city may allow the developer to alter the proposal so that the need for road improvement is lessened or may provide the developer with the option of bearing all or more than the development's proportionate share of the required road improvement costs, in which case the developer may attempt to recover its investment from subsequent developers whose projects utilize the road improvement. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.040 Development mitigation obligations.

Any application for approval of a permit for a development shall be reviewed to determine any requirements or mitigation obligations that may be applicable for the following:

(1) Impact on road system capacity;

(2) Impact on specific level-of-service deficiencies;

(3) Impact on specific inadequate road condition locations;

(4) Frontage improvements requirements;

(5) Access and transportation system circulation requirements;

(6) Dedication or deeding of rights-of-way requirements;

(7) Impact on state highways, and other cities' and counties' roads;

(8) Transportation demand management measures. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.050 Road system capacity requirements.

The direct traffic impacts of any development on the capacity of all arterials and nonarterials in the road system identified as needing future capacity improvements in the currently adopted transportation element will be mitigated either by constructing road improvements which offset the traffic impact of the development or by paying the development's share of the cost of the future capacity improvements. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.060 Level-of-service standards.

(1) As required by RCW 36.70A.070(6)(b), standards for levels-of-service on city arterials have been adopted by the city in its comprehensive plan adopted pursuant to the State Growth Management Act. The department will plan, program and construct transportation system capacity improvements for the purpose of maintaining these adopted level-of-service standards in order to facilitate new development that is consistent with the city's comprehensive plan.

(2) In accordance with RCW 36.70A.070(6)(e), no development will be approved which would cause the level-of-service on any arterial unit to fall below the adopted level-of-service standards unless improvements are programmed and funding identified which would remedy the deficiency within six years.

(3) When the city council determines that excessive expenditure of public funds is not warranted for the purpose of maintaining adopted level-of-service standards on an arterial unit, the city council may designate, by motion, such arterial unit as being at ultimate capacity. Improvements needed to address operational and safety issues may be identified in conjunction with such ultimate capacity designation.

(4) Level-of-service standards for arterial units which have been designated by the city council as ultimate capacity arterial units, and that directly connect state routes with a city, may be determined jointly by the state, county and city through an interlocal agreement.

(5) In order to promote efficiency in the transportation system and to maximize the benefits received from public investment through increased use of transit, ridesharing, and nonmotorized transportation, all new developments in the urban area shall provide a projection of sufficient transportation demand management measures to remove a minimum of five percent of a development's p.m. peak-hour trips from the road system. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.070 Inadequate pre-existing road conditions.

(1) Mitigation of impacts on inadequate pre-existing road conditions is required in order to improve inadequate roads in accordance with adopted standards, prior to dealing with the impacts of traffic from new development. If such inadequate conditions are found to be existing in the road system at the time of development application review and the development will put three or more p.m. peak-hour trips through the identified locations, the development will be approved only if provisions are made in accordance with Chapter 18B.14 MMC for improving the inadequate road conditions.

(2) The director or his/her authorized designee, in accordance with the department policy and procedure, will make determinations of road inadequacy for determination of inadequate road conditions. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.080 Frontage improvements.

All developments will be required to make frontage improvements in accordance with MMC 12.02.170. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.090 Access and transportation circulation requirements.

All developments shall be required to provide for access and transportation circulation in accordance with the comprehensive plan and the development regulations applicable to the particular development, to design and construct such access in accordance with the adopted engineering design and development standards, and to improve existing roads that provide access to the development in order to comply with adopted design standards. Access to state highways and city roads shall be in accordance with the applicable state or city standards and requirements. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.100 Right-of-way requirements.

As provided for by RCW 82.02.020, all developments, as a condition of approval, will be required to deed or dedicate property, as appropriate pursuant to MMC 12.02.190, when to do so is found by the director or a city hearing entity to be reasonably necessary as a direct result of the proposed development, for improvement, use or maintenance of the road system serving the proposed development. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.110 State highways, cities, and counties.

(1) Any level-of-service standards and concurrency requirements established in accordance with RCW 36.70A.070 for state highways will be addressed by a letter of understanding or an interlocal agreement between the city and WSDOT. All developments will be required to mitigate impacts that are under the jurisdiction of the WSDOT that are part of the transportation service area. The mitigating measures recommended by WSDOT will be imposed as a condition of development approval

to the extent that such requirements are reasonably related to the impact of the proposed development and consistent with the terms of a letter of understanding or an interlocal agreement between the city and WSDOT.

(2) Any level-of-service standards and concurrency requirements established in accordance with RCW 36.70A.070 for roads under the jurisdiction of other cities or the county will be addressed by an interlocal agreement between the city and the other city or county. The measures recommended by the county or other city will be imposed as a condition of development approval to the extent that such requirements are reasonably related to the impact of the proposed development and consistent with the terms of an interlocal agreement between the city and the other agency. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.120 Director authorization for administrative policies and technical procedures.

The director is hereby authorized to produce and maintain administrative policies and technical procedures in order to administer this title. The policies and procedures shall cover the various aspects of processing land use applications and shall set forth any necessary procedural requirements for developers to follow in order for their applications to be processed by staff in an efficient manner. The director shall produce administrative policies and technical procedures on at least the following topics:

(1) Traffic studies: scoping, elements, processing;

(2) Level-of-service determination: methodology, data collection;

(3) Transit compatibility: transit supportive criteria;

(4) Inadequate road conditions: criteria for identification;

(5) Frontage improvements: standards, variables;

(6) Mitigation measures: extent, timing, agreements. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.10.130 Development permit application completeness.

For purposes of this title, permit applications for development shall be determined to be complete in accordance with the complete application provisions as defined in the applicable development regulations in accordance with Chapter 36.70B RCW. A development permit application shall not be considered complete until all traffic studies or data required in accordance with Chapter 18B.12 MMC and/or specified in the preapplication meeting required by MMC 15.05.020 are received. Review periods and time limits shall be as established in MMC Title 15 in accordance with RCW 36.70A.065 and 36.70A.440 as recodified by ESHB 1724, Chapter 347, Laws of 1995. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.12

TRAFFIC STUDY

Sections:
18B.12.010 When required.

18B.12.010 When required.

In order to provide sufficient information to assess a development's impact on the road system, developments adding three or more p.m. peak-hour trips will be required to provide a traffic study when it has been determined at the presubmittal meeting that there is not sufficient information existing in the department's database to adequately assess the traffic impacts of the development. The traffic study will consist of at least a traffic generation and distribution. The director may require that additional information be provided on impacts of the development to level-of-service of affected streets, inadequate road conditions, adequacy of the proportionate share calculations of any voluntary payments required under this title to reasonably or adequately mitigate for impacts of the proposed development, and conformance with the adopted transportation element. The director shall determine at the preapplication conference the need for a study and the scope of analysis of any needed study. The director shall also determine if the traffic study may rely on the Institute of Transportation Engineers (ITE) Trip Generation Manual.

If, in the opinion of the director, there is sufficient information known about a development's road system from previous traffic studies, the director may waive the requirement for a traffic study and so state the finding in the preapplication meeting. In such cases, the existing information will be used to establish any necessary traffic mitigation requirements to be recommended in the review of the development. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.14

DETERMINATION AND FULFILLMENT OF ROAD SYSTEM OBLIGATIONS

Sections:
18B.14.010 Determination of developer obligations.
18B.14.020 Road system capacity requirements.
18B.14.030 Traffic impact fee.
18B.14.035 Traffic impact fee exemption.
18B.14.040 Level-of-service requirements – Concurrency determinations.
18B.14.050 Inadequate road condition requirements.
18B.14.060 Special circumstances.
18B.14.070 Administration of traffic impact fees.

18B.14.010 Determination of developer obligations.

(1) Applications which have a prior SEPA threshold determination establishing developer obligation for the transportation impacts at time of enactment of the ordinance codified in this title shall be vested under the development obligation identified under SEPA.

(2) A determination of developer obligation shall be made by the city before approval of preliminary plats, short subdivisions, and conditional use permits. For binding site plans (including those associated with rezone applications) and commercial permits, the determination of developer obligation shall be made prior to issuance of a building permit.

(3) Mitigation measures imposed as conditions of approval of conditional use permits or binding site plans shall remain valid until the expiration date of the concurrency determination for a development. Any building permit application submitted after the expiration date shall be subject to full reinvestigation of traffic impacts under this title before the building permit can be issued. Determination of new or additional impact mitigation measures shall take into consideration, and may allow credit for, mitigation measures fully accomplished in connection with approval of the conditional use permit, the binding site plan, or prior building permits pursuant to a binding site plan, only where those mitigation measures addressed impacts of the current building permit application.

(4) The director, following review of any required traffic study and any other pertinent data, shall inform the developer in writing what the development's impacts and mitigation obligations are under this title. The developer shall make a

written proposal for mitigation of the development's traffic impact, except when such mitigation is by payment of any impact fee under the authority provided to the city under RCW 82.02.050(2). When the developer's written proposal has been reviewed for accuracy and completeness by the director, the director shall make a recommendation to the community development department, as to the concurrency determination and conditions of approval or reasons for recommending denial of the land use application, citing the requirements of this title.

(5) For developments which require a public hearing, a developer must submit a written proposal to the director for mitigation of the development's traffic impact, except where such mitigation is by payment of any impact fee under the authority provided to the city under RCW 82.02.050(2). The written proposal must be submitted after any required traffic study has been reviewed and the director has stated the mitigation requirements pursuant to this chapter.

(6) Any request to amend a proposed development, following the determination of developer obligations and approval of the development, which causes an increase in the traffic generated by the development, or a change in points of access, shall be processed in the same manner as an original application and determined to be a substantial project revision, except where written concurrence is provided by the community development director that such request may be administratively approved. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.14.020 Road system capacity requirements.

(1) All developments must mitigate their impact upon the future capacity of the road system either by constructing off-site road improvements which offset the traffic impact of the development or by paying the development's proportionate share cost of the future capacity improvements as set forth in MMC 18B.14.030.

(2) Construction Option – Requirements.

(a) If a developer chooses to mitigate the development's impact to the road system capacity by constructing off-site road improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the director for construction of the off-site improvements.

(b) In cases where two or more developers have agreed to fully fund a certain improvement the proportionate sharing of the costs shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as conditions of approval.

(c) Any developer who volunteers to construct more than the development's share of the cost of off-site improvements may apply for a reimbursement contract.

(3) Payment Option – Requirements.

(a) If a developer chooses to mitigate the development's impact by making a proportionate share mitigating payment, the development's share of the cost of future capacity improvements will be equal to the development's peak-hour traffic (PHT) times the per-trip amount as identified in the transportation element of the comprehensive plan, as codified below.

(b) If a developer chooses to mitigate the development's impact by making a proportionate share mitigating payment, the payment is required prior to building permit issuance unless the development is a subdivision or short subdivision, wherein the payment is required prior to the recording of the subdivision or short subdivision.

(c) Any developer who volunteers to pay more than the development's share of the cost of off-site improvements may apply for a reimbursement contract. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.14.030 Traffic impact fee.

(1) The proportionate share fee amount shall be calculated in accordance with the formula established in Table I below:

Table I:

A. Formula

Step 1.	Calculate total transportation plan costs (20-year).
Step 2.	Subtract costs assigned to other agencies = total city of Marysville costs.
Step 3.	Subtract city-funded noncapacity projects from total city of Marysville costs.
Step 4.	Subtract LID or other separate developer funding sources = capacity added projects.
Step 5.	Subtract city share for external capacity added traffic.
Step 6.	Calculate applied discount.

The fee amount resulting from Step 5 is the required traffic impact fee payment.

(2) Data needed for calculation of the fee amount shall be provided in the adopted transportation element and street capital facility plan contained within the adopted city comprehensive plan, which data shall be updated at least annually. (Ord. 2573 § 1, 2005; Ord. 2343 § 1, 2000; Ord. 2279, 1999).

18B.14.035 Traffic impact fee exemption.

(1) Traffic Impact Fee Exemption Established. Pursuant to RCW 82.02.060(2) and (4) there is hereby established an exemption from the traffic impact fee set forth in MMC 18B.14.030 for development activity which meets the criteria of subsection (3) of this section.

(2) Application for Traffic Impact Fee Exemption.

(a) Impact Fee Exemption. Any developer applying for or receiving a building permit which meets the criteria set forth in subsection (3) of this section may apply to the director of public works or designee for an exemption from the traffic impact fee established pursuant to MMC 18B.14.030. Said application shall be on forms provided by the city and shall be accompanied by all information and data the city deems necessary to process the application. To the extent it is authorized by law the city shall endeavor to keep all proprietary information submitted with said application confidential; provided, however, this section shall not create or establish a special duty to do so.

(3) Exemption Criteria. To be eligible for the traffic impact fee exemption established by this section, the applicant shall meet each of the following criteria:

(a) The applicant must be a new commercial retail business in the Marysville city limits. For purposes of this section, "new commercial retail business" shall mean any business which sells retail goods and services which are subject to the retail sales tax provisions of Chapter 3.84 MMC and which applies for a building permit and which is subject to payment of traffic impact fees pursuant to this title.

(b) Based on similar store sales or other reliable data, as determined by the city, the applicant must demonstrate that it is likely to generate to the city of Marysville average annual city of Marysville portion sales and use tax revenue of at least $200,000 based upon the three-year period commencing from date of certificate of occupancy.

(c) The applicant must be a new retail business located within one of the following prescribed land use zones: light industrial (LI), general commercial (GC), community business (CB), mixed use (MU), downtown commercial (DC).

(4) Administration of Traffic Impact Fee Exemption.

(a) Upon acceptance of an application for exemption from traffic impact fees pursuant to subsection (2) of this section, the applicant shall pay to the city the full amount of the traffic impact fees required pursuant to MMC 18B.14.030. Following receipt of the traffic impact fees the city shall deposit and manage the fees as set forth in subsection (5) of this section. At the expiration of a three-year period commencing from the date of issuance of a certificate of occupancy the public works director, with the assistance of the city finance director shall determine if the average annual city of Marysville portion sales and use tax revenue received by the city meets the minimum amount stated in subsection (3)(b) of this section. The determination shall be based upon the sales tax reporting requirements of Chapter 3.84 MMC as it now reads or is hereafter amended.

(b) In the event the three-year average annual city of Marysville portion sales and use tax revenue criteria of subsection (3)(b) of this section has been met as determined by the director of public works, there shall be an exemption of 50 percent from the traffic impact fees otherwise due pursuant to MMC 18B.14.030. In such case, 50 percent of the amount paid to the city pursuant to subsection (4)(a) of this section shall be refunded to the applicant, plus any accrued interest. The remainder of the funds deposited pursuant to subsection (4) of this section shall belong to the city and shall be released to the city.

(c) In the event the three-year average annual city of Marysville portion sales and use tax revenue criteria of subsection (3)(b) of this section has not been met, the traffic impact fee required under MMC 18B.14.030 shall immediately belong to and shall be released to the city; provided, however, in cases where the applicant has met at least 75 percent of the amount set forth in subsection (3)(b) of this section, the applicant shall receive a partial exemption which shall result in a refund of 25 percent of the amount paid to the city pursuant to subsection (4) of this section plus any accrued interest. The remainder of the funds deposited pursuant to subsection (4) of this section shall belong to the city and shall be released to the city.

(d) In cases where the applicant has not met either the three-year annual sales and use tax revenue of subsection (3)(b) of this section or 75 percent thereof, all traffic impact fees paid pursuant to MMC 18B.14.030 shall belong to the city.

(5) Deposit and Management of Traffic Impact Fees. Traffic impact fees paid by an applicant pursuant to this section and the provisions of MMC 18B.14.030 shall be deposited by the city into a separate interest bearing account with any qualified public depository for local government as determined by the city. The account holder shall be the city of Marysville. The city may at its option withdraw up to 50 percent of said funds at any time for uses authorized by this title. All other funds deposited in that account shall be used exclusively for payment of refunds to eligible applicants pursuant to subsection (4) of this section and balances, if any, to which the city is entitled. All refunds and interest to which an applicant is entitled shall be paid by the city within 120 days following the three-year period following the issuance of a certificate of occupancy.

(6) Appeals. Any applicant aggrieved by the determination of the director of public works as to whether the criteria of subsection (3) of this section have been met or the eligibility for an exemption from MMC 18B.14.030 or the amount of refund to which an applicant is entitled pursuant to subsection (4) of this section may file a written appeal to the city's land use hearing examiner as established by Chapter 2.70 MMC. The city examiner is hereby specifically authorized to hear and decide such appeals and the decision of the hearing examiner shall be final action of the city and subject to appeal pursuant to Chapter 15.11 MMC.

(7) Application of Sales and Use Tax Revenue from Businesses Which Receive an Exemption or Partial Exemption.

(a) All sales and use tax received by the city from applicants who receive an exemption or partial exemption from the requirements of this title shall be deposited in a special account to be administered by the city. Said account shall be established to pay traffic impact fees that otherwise would have been paid had an exemption or partial exemption not been granted. Said amounts shall be expended for purposes authorized by and in accordance with the provisions of this title and the provisions of the city's capital improvement plan for streets. All sales and use tax revenues in excess of the amount paid as traffic impact fees received by the city from the applicant may be deposited in the city's general fund and may be expended for any lawful purpose as directed by the city council.

(b) Special Sales Tax Account. The city shall establish by separate ordinance a special sales tax account for the purposes set forth in subsection (7)(a) of this section. (Ord. 2574 §§ 2 – 8, 2005).

18B.14.040 Level-of-service requirements – Concurrency determinations.

(1) The department shall make a concurrency determination for each development application. The concurrency determination will establish whether the development will impact an arterial unit where the level-of-service is below the adopted level-of-service standard, or cause the level-of-service on an arterial unit to fall below the adopted level-of-service standard, unless improvements are programmed and funding identified which would remedy the deficiency within six years. In either case, the development will be deemed not concurrent. The approving authority shall not approve any development that is not deemed concurrent under this section. Building permit applications for development within an approved rezone with binding site plan, nonresidential subdivision or short subdivision, for which a concurrency determination has been made in accordance with this section, shall be deemed concurrent; provided, that the building permit will not cause the approved traffic generation of the prior approval to be exceeded, there is no change in points of access, and mitigation required pursuant to the rezone with binding site plan, subdivision or short subdivision approval is performed as a condition of building permit issuance.

(a) The department shall make a concurrency determination upon receipt of a development's application submittal. The determination may change based upon revisions in the application. Any change in the development after approval will be resubmitted to the director, and the development will be reevaluated for concurrency purposes.

(b) Concurrency shall expire six years after the date of the concurrency determination, or, in the case of approved residential subdivisions, when the approval expires or when the application is withdrawn or allowed to lapse.

(c) Building permits for a development must be issued prior to expiration of concurrency for the development. No additional concurrency determination shall apply to residential dwellings within a subdivision or short subdivisions recorded in compliance with this section.

(d) If concurrency expires prior to building permit issuance, the director shall at the request of the developer consider evidence that conditions have not significantly changed and make a new concurrency determination in accordance with subsection (1)(c) of this section.

(2) In determining whether or not to deem a proposed development as concurrent, the depart-

ment shall analyze likely road system impacts on arterial units based on the size and location of the development. A development shall be deemed concurrent for the period prior to the expiration date of concurrency for the development.

(a) A development's forecast trip generation at full occupancy shall be the basis for determining the impacts of the development on the road system. The city will accept valid data from a traffic study prepared under Chapter 18B.12 MMC.

(3) A concurrency determination made for a proposed development under this section will evaluate the development's impacts on any arterial units in arrears.

(a) If a development which generates 10 or more p.m. peak-hour trips, or a nonresidential development which generates five or more p.m. peak-hour trips, is proposed to affect an arterial unit in arrears, then the development may only be deemed concurrent, based on a trip distribution analysis to determine the impacts of the development. Impacts shall be determined based on each of the following:

(i) If the trip distribution analysis indicates that the development will not place three or more p.m. peak-hour trips on any arterial units in arrears, then the development shall be deemed concurrent.

(ii) If the trip distribution analysis indicates that the development will place three or more p.m. peak-hour trips on any arterial unit in arrears, then the development shall not be deemed concurrent except where the development is deemed concurrent in accordance with the options under subsection (5) of this section.

(4) Any residential development that generates less than 10 p.m. peak-hour trips, or any nonresidential development that generates less than 10 p.m. peak-hour trips, shall be considered to have only minor impact on city arterials for purposes of a concurrency determination on impacts to level-of-service on arterial units and shall be deemed concurrent.

(5) Any development not deemed concurrent shall have options available to enable the development to be deemed concurrent as follows:

(a) A development which meets the department's criteria for transit compatibility, in accordance with the director's policy and procedure for transit compatibility under MMC 18B.10.120, shall be deemed concurrent if the impacted arterial unit in arrears meets the criteria for transit supportive design in accordance with the director's policy and procedure for transit compatibility, and if the level-of-service on the impacted arterial unit in arrears meets the LOS standards adopted within the comprehensive plan; and provided, that the development can be deemed concurrent in accordance with all other provisions of subsection (3) of this section.

(b) A development may modify its proposal to lessen its impacts on the road system in such a way as to allow the city to deem the development concurrent under this section.

(c) The city may deem such development concurrent based upon a written proposal signed by the proponent of the development and attached to the director's recommendation under MMC 18B.10.020, and referenced in the concurrency determination, as a condition of approval.

(i) Such proposal may include conditions which would defer construction of all or identified subsequent phases of a development until such time as the city has made or programmed capacity improvements which would remedy any arterial units in arrears.

(ii) Such proposals may include conditions which would defer construction of all or identified subsequent phases of a development until such time as the developer constructs capacity improvements which would remedy any arterial units in arrears.

(A) If a developer chooses to mitigate the development's impact by constructing off-site road improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the director for construction of the off-site improvements. Construction of improvements shall be in accordance with the engineering design and development standards.

(B) In cases where two or more developers have agreed to fully fund a certain improvement, the proportionate sharing of the cost shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as conditions of approval.

(C) Any developer who volunteers to construct off-site improvements of greater value than any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of city roads may apply for a reimbursement contract.

(D) Any developer who chooses to mitigate a development's impact by constructing off-site improvements may propose to the council that a joint public/private partnership be established to jointly fund and/or construct the proposed improvements. The director will determine

whether or not such a partnership is to be established.

(E) Construction of capacity improvements under this section must be complete or under contract prior to the issuance of any building permits and must be complete prior to approval for occupancy or final inspection; provided, that where no building permit will be associated with a change in occupancy, then construction of improvements is required as a precondition to approval.

(6) Adopted Level-of-Service. The level-of-service for principal, minor, and collector arterials at signalized intersections shall be at a LOS consistent with the transportation element of the comprehensive plan using the operational method as a standard of review. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.14.050 Inadequate road condition requirements.

(1) Regardless of the existing level-of-service, development which adds three or more p.m. peak-hour trips to an inadequate road condition existing on the road system, at the time of determination in accordance with MMC 18B.14.010, or development whose traffic will cause an inadequate road condition at the time of full occupancy of the development will only be approved for occupancy or final inspection when provisions are made in accordance with this chapter for elimination of the inadequate road condition. The improvements removing the inadequate road condition must be complete or under contract before a building permit on the development will be issued and the road improvement must be complete before any certificate of occupancy or final inspection will be issued; provided, that where no building permit will be associated with a conditional use permit, then the improvements removing the inadequate road condition must be complete as a precondition to approval.

(2) The director shall determine whether or not a location constitutes an inadequate road condition. Any known inadequate road condition to which the development adds three or more p.m. peak-hour trips shall be identified as part of the director's recommendation under MMC 18B.14.040.

(3) A development's access onto a public road shall be designed so as not to create an inadequate road condition. Developments shall be designed so that inadequate road conditions are not created.

(4) Construction Option – Requirements.

(a) If a developer chooses to eliminate an inadequate road condition by constructing off-site road improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the director for construction of the off-site improvements.

(b) In cases where two or more developers have agreed to fully fund a certain improvement, the proportionate sharing of the costs shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as conditions of approval.

(c) Any developer who volunteers to construct off-site improvements of greater value than any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of city roads, which are contained within the cost basis, contained within the transportation element, or which are not part of the cost basis of any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of city roads, and therefore not credited against any proportionate share mitigating payment, may apply for a reimbursement contract. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.14.060 Special circumstances.

Where the only remedy to an arterial unit in arrears is the installation of a traffic signal, but signalization warrants contained in the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) are not met at present, developments impacting the arterial unit will be allowed to proceed without the installation of the traffic signal; provided, that all other warranted level-of-service and transit-related improvements are made on the arterial unit within the deficient level-of-service. Developments impacting such arterial units will not be issued building permits or occupancies (whichever comes first) until the improvements (not including the traffic signal) to the level-of-service deficient arterial unit are under contract or being performed. Such developments will be subject to all other obligations as specified in this title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.14.070 Administration of traffic impact fees.

(1) Any traffic impact fees made pursuant to this title shall be subject to the following provisions:

(a) The traffic impact fee payment is required prior to building permit issuance unless the development is a subdivision or short subdivision, in which case the payment shall be made prior to the recording of the subdivision or short subdi-

vision; provided, that where no building permit will be associated with a change in occupancy or conditional use permit then payment is required prior to approval of occupancy.

(b) The traffic impact fees shall be held in a reserve account and shall be expended to fund improvements on the road system.

(c) An appropriate and reasonable portion of traffic impact fees collected may be used for administration of this title.

(d) The fee payer may receive a refund of such fees if the city fails to expend or encumber the impact fees within six years of when the fees were paid or other such period of time established pursuant to RCW 82.02.070(3), on transportation facilities intended to benefit the development for which the traffic impact fees were paid, unless the city council finds that there exists an extraordinary and compelling reason for fees to be held longer than six years. These findings shall be set forth in writing and approved by the city council. In determining whether traffic impact fees have been encumbered, impact fees shall be considered encumbered on a first-in/first-out basis. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

(e) The request for a refund must be submitted by the applicant to the city in writing within 90 days of the date the right to claim the refund arises, or the date that notice is given, whichever is later. Any traffic impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this 90-day period, shall be retained and expended on projects identified in the adopted transportation element. Refunds of traffic impact fees under this subsection shall include interest earned on the impact fees.

(2) Off-site improvements include construction of improvements to mitigate an arterial unit in arrears and/or specific inadequate road condition locations. If a developer chooses to construct improvements to mitigate an arterial unit in arrears or inadequate road condition problem, and the improvements constructed are part of the cost basis of any traffic impact fees imposed under this title to mitigate the development's impact on the future capacity of city roads, the cost of these improvements will be credited against the traffic impact fee amount; provided, that the amount of the cost to be credited shall be the estimate of public works director as to what the city's cost would be to construct the improvement. Any developer who volunteers to pay for and/or construct off-site improvements of greater value than any traffic impact fees imposed under this title, to mitigate the development's impact on the future capacity of city roads, based on the cost basis contained within the transportation element, or which are not part of the cost basis of any traffic impact fees imposed under this title to mitigate the development's impact on the future capacity of city roads, and therefore not credited against the traffic impact fees, may apply for a reimbursement contract. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.20

APPEALS

Sections:
18B.20.010 Administrative appeals.

18B.20.010 Administrative appeals.

Administrative interpretations and administrative approvals made pursuant to this chapter may be appealed to the hearing examiner pursuant to Chapter 15.11 MMC. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Chapter 18B.22

SEVERABILITY AND DUTY

Sections:
18B.22.010 Severability.
18B.22.020 No special duty.
18B.22.030 Emergency.

18B.22.010 Severability.

If any section, subsection, sentence, clause, phrase or word of this title 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 title. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.22.020 No special duty.

It is the purpose of this chapter to provide for the health, welfare and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. No provision or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory. Nothing contained in this chapter is intended to be, nor shall be construed to create or form the basis for, any liability on the part of the city or its officers, agents and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officers, agents or employees. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

18B.22.030 Emergency.

In light of the rapid rate of development in the city of Marysville and Snohomish County and the need to provide adequate streets and transportation facilities to serve development, an emergency is hereby declared to exist due to the fiscal impacts of delay on the city and in order to preserve the public health, safety and welfare. (Ord. 2573 § 1, 2005; Ord. 2279, 1999).

Title 18C

SCHOOL IMPACT FEES AND MITIGATION

Chapters:

18C.02 General Provisions
18C.04 Definitions
18C.06 School District Eligibility for Impact Fees
18C.08 Capital Facilities Plan Requirements and Procedures
18C.10 School Impact Fee
18C.12 Impact Fee Accounting
18C.14 Adjustments – Appeals – Arbitration
18C.16 Severability and Savings

Chapter 18C.02

GENERAL PROVISIONS

Sections:
18C.02.010 Purposes.
18C.02.020 Applicability.

18C.02.010 Purposes.

The purposes of this title are:

(1) To ensure that adequate school facilities are available to serve new growth and development; and

(2) To require that new growth and development pay a proportionate share of the costs of new school facilities needed to serve new growth and development. (Ord. 2213 § 1, 1998).

18C.02.020 Applicability.

The terms of this title shall apply to all development for which a complete application for approval is submitted on or after the effective date of the ordinance codified in this chapter, except for development that was the subject of a prior SEPA threshold determination that provided for school mitigation. An application will only be considered complete if the city has issued a letter of completeness pursuant to MMC 15.05.040. All building permit applications accepted by the department prior to the effective date of the ordinance codified this chapter, or for development that was the subject of a prior SEPA threshold determination that included provisions for school mitigation, shall be reviewed pursuant to the city of Marysville environmental policy ordinance, Chapter 19.22 MMC. (Ord. 2213 § 1, 1998).

Chapter 18C.04

DEFINITIONS

Sections:
18C.04.010 Words defined by RCW 82.02.090.
18C.04.020 Other definitions.

18C.04.010 Words defined by RCW 82.02.090.

Words used in this title and defined in RCW 82.02.090 shall have the same meaning assigned in RCW 82.02.090 unless a more specific definition is contained in MMC 18C.04.020. (Ord. 2213 § 1, 1998).

18C.04.020 Other definitions.

(1) "Average assessed value" means the district's average assessed value for each dwelling unit type.

(2) "Boeckh Index" means the current construction trade index of construction costs for each school type.

(3) "Capital facilities" means school facilities identified in a school district's capital facilities plan and are "system improvements" as defined by the GMA as opposed to localized "project improvements."

(4) "Capital facilities plan" means a district's facilities plan adopted by its school board consisting of those elements required by Chapter 18C.06 MMC and meeting the requirements of the GMA.

(5) "Council" means the Marysville city council.

(6) "County" means Snohomish County.

(7) "Department" means the city of Marysville planning and building department.

(8) "Developer" means the proponent of a development activity, such as any person or entity who owns or holds purchase options or other development control over property for which development activity is proposed.

(9) "Development" means all subdivisions, short subdivisions, conditional or special use permits, binding site plan approvals, rezones accompanied by an official site plan, or building permits (including building permits for multifamily and duplex residential structures, and all similar uses) and other applications requiring land use permits or approval by the city of Marysville.

(10) "Development activity" means any residential construction or expansion of a building, structure or use of land, or any other change in use of a building, structure, or land that creates additional demand and need for school facilities, but excluding building permits for remodeling or reno-

vation permits which do not result in additional dwelling units. Also excluded from this definition is "housing for older persons" as defined by 46 U.S.C. Section 3607, when guaranteed by a restrictive covenant, and new single-family detached units constructed on legal lots created prior to the effective date of the ordinance codified in this chapter.

(11) "Development approval" means any written authorization from the city which authorizes the commencement of a development activity.

(12) "Director" means the city planner or the city planner's designee.

(13) "District" means a school district whose geographic boundaries include areas within the city of Marysville.

(14) "District property tax levy rate" means the district's current capital property tax rate per $1,000 of assessed value.

(15) "Dwelling unit type" means:

(a) Single-family residences;

(b) Multifamily one-bedroom apartment or condominium units; and

(c) Multifamily multiple-bedroom apartment or condominium units.

(16) "Encumbered" means school impact fees identified by the district to be committed as part of the funding for capital facilities for which the publicly funded share has been assured, development approvals have been sought or construction contracts have been let.

(17) "Estimated facility construction cost" means the planned costs of new schools or the actual construction costs of schools of the same grade span recently constructed by the district, including on site and off-site improvement costs. If the district does not have this cost information available, construction costs of school facilities of the same or similar grade span within another district are acceptable.

(18) "Facility design capacity" means the number of students each school type is designed to accommodate, based on the district's standard of service as determined by the district.

(19) "Grade span" means a category into which a district groups its grades of students (e.g., elementary, middle or junior high, and high school).

(20) "Growth Management Act/GMA" means the Growth Management Act, Chapter 17, Laws of the State of Washington of 1990, First Ex. Sess., as now in existence or as hereafter amended.

(21) "Interest rate" means the current interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index.

(22) "Land cost per acre" means the estimated average land acquisition cost per acre (in current dollars) based on recent site acquisition costs, comparisons of comparable site acquisition costs in other districts, or the average assessed value per acre of properties comparable to school sites located within the district.

(23) "Multifamily unit" means any residential dwelling unit that is not a single-family unit as defined by this chapter.

(24) "Permanent facilities" means school facilities of the district with a fixed foundation.

(25) "Relocatable facilities" means factory-built structures, transportable in one or more sections, that are designed to be used as education spaces and are needed to prevent the overbuilding of school facilities, to meet the needs of service areas within a district, or to cover the gap between the time that families move into new residential developments and the date that construction is completed on permanent school facilities.

(26) "Relocatable facilities cost" means the total cost, based on actual costs incurred by the district, for purchasing and installing portable classrooms.

(27) "Relocatable facilities student capacity" means the rated capacity for a typical portable classroom used for a specified grade span.

(28) "School impact fee" means a payment of money imposed upon development as a condition of development approval to pay for school facilities needed to serve new growth and development. The school impact fee does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.

(29) "Single-family unit" means any detached residential dwelling unit designed for occupancy by a single family or household.

(30) "Standard of service" means the standard adopted by each district which identifies the program year, the class size by grade span and taking into account the requirements of students with special needs, the number of classrooms, the types of facilities the district believes will best serve its student population, and other factors as identified in the district's capital facilities plan. The district's standard of service shall not be adjusted for any portion of the classrooms housed in relocatable facilities which are used as transitional facilities or from any specialized facilities housed in relocatable facilities.

(31) "State match percentage" means the proportion of funds that are provided to the district for specific capital projects from the state's common

school construction fund. These funds are disbursed based on a formula which calculates district assessed valuation per pupil relative to the whole state assessed valuation per pupil to establish the maximum percentage of the total project eligible to be paid by the state.

(32) "Student factor (student generation rate)" means the number of students of each grade span (elementary, middle/junior high, high school) that a district determines are typically generated by different dwelling unit types within the district. Each school district will use a survey or statistically valid methodology to derive the specific student generation rate; provided, that the survey or methodology is approved by the Marysville city council as part of the adopted capital facilities plan for each school district. (Ord. 2213 § 1, 1998).

Chapter 18C.06

SCHOOL DISTRICT ELIGIBILITY FOR IMPACT FEES

Sections:

18C.06.010 Capital facilities plan required.
18C.06.020 Expiration of district plans.
18C.06.030 Updating of district plans.

18C.06.010 Capital facilities plan required.

Any district serving the city of Marysville shall be eligible to receive school impact fees upon adoption by the council of a capital facilities plan for the district by reference as part of the capital facilities element of the city comprehensive plan. The plan shall meet the requirements of the GMA. Subject to the provisions of this title, these actions will also constitute adoption by the city of the schedule of school impact fees specified in such capital facilities plan. (Ord. 2471 § 1, 2003; Ord. 2339 § 2, 2000; Ord. 2330 § 4, 2000; Ord. 2213 § 1, 1998).

18C.06.020 Expiration of district plans.

For purposes of school impact fee eligibility, a district's capital facilities plan shall expire two years from the date of its adoption by the council, or when an updated plan meeting the requirements of the GMA is adopted by the council, whichever date first occurs. (Ord. 2213 § 1, 1998).

18C.06.030 Updating of district plans.

(1) A district's capital facilities plan shall be updated by the district and transmitted to the city by the district at least 60 days prior to its biennial expiration date. The district's updated plan shall be submitted by the department to the council for its consideration within 45 days of the department's receipt of the district's approved CFP. In the event any district desires to amend its capital facilities plan prior to the biennial expiration date, the district may propose an amendment to be considered by the city, provided such amendments shall be considered by the city no more than once per year unless the board of directors of such district declares, and the city finds, that an emergency exists.

(2) A district's updated capital facilities plan may include revised data for the fee calculation and a corresponding modification to the impact fee schedule, consistent with the city GMA comprehensive plan. (Ord. 2213 § 1, 1998).

Chapter 18C.08

CAPITAL FACILITIES PLAN REQUIREMENTS AND PROCEDURES

Sections:

18C.08.010 Minimum requirements for district capital facilities plans.
18C.08.020 Department review and acceptance.
18C.08.030 Council adoption.
18C.08.040 Correction of deficiencies.
18C.08.050 Delays.

18C.08.010 Minimum requirements for district capital facilities plans.

To be eligible for school impact fees, districts must submit capital facilities plans to the city pursuant to the procedure established by this chapter. Capital facilities plans shall contain data and analysis necessary and sufficient to meet the requirements of the GMA. The plans must provide sufficient detail to allow computation of school impact fees according to the formula contained in MMC 18C.10.010, Table 1. (Ord. 2213 § 1, 1998).

18C.08.020 Department review and acceptance.

Upon receipt of a district's capital facilities plan (or amendment thereof) the department shall determine the following:

(1) That the analysis contained within the capital facilities plan is consistent with current data developed pursuant to the requirements of the GMA.

(2) That any school impact fee proposed in the district's capital facilities plan has been calculated using the formula contained in MMC 18C.10.010, Table 1.

(3) That the capital facilities plan has been adopted by the district's board of directors.

Upon finding that these requirements have been satisfied, the department shall transmit the capital facilities plan to the council for consideration and adoption. (Ord. 2213 § 1, 1998).

18C.08.030 Council adoption.

Following receipt from the department of a district's capital facilities plan or amendment thereof, the council shall consider adoption of said plan or amendment by reference as part of the capital facilities element of the city comprehensive plan. (Ord. 2213 § 1, 1998).

18C.08.040 Correction of deficiencies.

Prior to its adoption by the council, should the department find a district's capital facilities plan to be deficient, the department shall notify the district of the deficiency, identifying the specific matters found to be deficient, and shall indicate the standard for correction. The district shall then have 45 days (or such longer period as may be necessary to comply with applicable legal requirements) to correct the deficiencies and resubmit its revised, adopted capital facilities plan to the department. (Ord. 2213 § 1, 1998).

18C.08.050 Delays.

If a district fails to submit its biennial update of the capital facilities plan prior to 60 days before the expiration date, or if the department notifies a district of deficiencies in the district's proposed capital facilities plan and the district fails to correct identified deficiencies within 45 days (or such longer period as may be necessary to comply with applicable legal requirements), the department shall endeavor, but shall not be obligated, to complete review prior to the plan expiration date. If an updated capital facilities plan has not been adopted by the council prior to the existing plan's expiration date due to the district's failure to submit an updated plan, the district shall be ineligible to receive school impact fees until the updated plan has been adopted by the council. (Ord. 2213 § 1, 1998).

Chapter 18C.10

SCHOOL IMPACT FEE

Sections:

18C.10.010 Fee required.
18C.10.020 Impact fee schedule – Exemptions.
18C.10.030 Service areas established.
18C.10.040 Impact fee limitations.
18C.10.050 Fee determination.
18C.10.060 Credit for in-kind contributions/existing lots.
18C.10.070 SEPA mitigation and other review.

18C.10.010 Fee required.

(1) Each development activity, as a condition of approval, shall be subject to the school impact fee established pursuant to this title. The school impact fee shall be calculated in accordance with the formula established in Table 1 below. The school impact fee calculated in accordance with the formula established in Table 1 of this chapter shall then be multiplied by .75 to determine the school impact fee due and payable by the applicant.

TABLE 1

Impact Fee Calculation Formula

A. General. The formula in this section provides the basis for the impact fee schedule for each district serving the city of Marysville. District capital facilities plans shall include a calculation of its proposed impact fee schedule, by dwelling unit type, utilizing this formula. In addition, a detailed listing and description of the various data and factors needed to support the fee calculation is included herein and within Chapter 18C.04 MMC, Definitions.

B. Determination of Projected School Capacity Needs. Each district shall determine, as part of its capital facilities plan, projected school capacity needs for the current year and for not less than the succeeding five-year period. The capital facilities plan shall also include estimated capital costs for the additional capacity needs, and those costs shall provide the basis for the impact fee calculations set forth in this section.

C. Cost Calculation by Element. The fees shall be calculated on a "per dwelling unit" basis, by "dwelling unit type" as set forth below.

1. Site Acquisition Cost Element.

$\{[B(2) \times B(3)] \div B(1)\} \times A(1) =$ Site Acquisition Cost Element

Where:

B(2) = Site Size (in acres, to the nearest 1/10th)

B(3) = Land Cost (per acre, to the nearest dollar)

B(1) = Facility Design Capacity (see MMC 18C.04.020)

A(1) = Student Factor (for each dwelling unit type – see MMC 18C.04.020)

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added with the result being the "total site acquisition cost element" for purposes of the final school impact fee calculation below.

2. School Construction Cost Element.

$[C(1) \div B(1)] \times A(1) =$ School Construction Cost Element

Where:

C(1) = Estimated Facility Construction Cost (see MMC 18C.04.020)

B(1) = Facility Design Capacity

A(1) = Student Factor (for each dwelling unit type)

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added and multiplied by the square footage of permanent facilities divided by the total square footage of school facilities, with the result being the "total school construction cost element" for purposes of the final school impact fee calculation below.

3. Relocatable Facilities (Portables) Cost Element.

$[E(1) \div E(2)] \times A(1) =$ Relocatable Facilities Cost Element

Where:

E(1) = Relocatable Facilities Cost

E(2) = Relocatable Facilities Student Capacity (see MMC 18C.04.020)

A(1) = Student Factor (for each dwelling unit type)

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added and multiplied by the square footage of relocatable facilities divided by the total square footage of school facilities, with the result being the "total relocatable facilities cost element" for purposes of the final school impact fee calculation below.

D. Credits Against Cost Calculation – Mandatory. The following monetary credits shall be deducted from the calculated cost elements defined above for purposes of calculating the final school impact fee below.

1. State Match Credit.

D(1) x D(3) x D(2) x A(1) = State Match Credit

Where:

D(1) = Boeckh Index (see MMC 18C.04.020)

D(3) = Square footage of school space allowed per student, by grade span, by the Office of the Superintendent of Public Instruction

D(2) = State Match Percentage (see MMC 18C.04.020)

A(1) = Student Factor (for each dwelling unit type)

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added with the result being the "total state match credit" for purposes of the final school impact fee calculation below.

2. Tax Payment Credit.

$$\frac{[(1 + F(1))^{10}] - 1}{F(1)(1 + F(1))^{10}} \times F(2) \times F(3) = \text{Tax Credit}$$

Where:

F(1) = Interest Rate (see MMC 18C.04.020)

F(2) = District Property Tax Levy Rate (see MMC 18C.04.020)

F(3) = Average Assessed Value (for each dwelling unit type – see MMC 18C.04.020)

E. Adjustments Against Cost Calculation – Elective by District. Recognizing that the availability of other sources of public funds varies among districts, each district may provide an additional credit against school impact fees which the district determines will provide the best balance in system improvement funding within the district, between school impact fees and other sources of local public funds available to the district. This adjustment may reduce, but may not increase, the school impact fee from the amount determined by application of the elements identified above. The adjustment, if any, applied by the district shall be specified within the capital facilities plan adopted by the city.

F. Calculation of Total Impact Fee.

1. The total school impact fee, per dwelling unit, assessed on a development activity shall be the sum of:

Total Site Acquisition Cost Element
Total School Construction Cost Element
Total Relocatable Facilities Cost Element

minus the sum of:

Total State Match Credit
Total Tax Payment Credit
Elective Adjustment by District

expressed in total dollars per dwelling unit, by dwelling unit type.

2. The total school impact fee obligation for each development activity pursuant to the school impact fee schedule of this chapter shall be calculated as follows:

Number of Dwelling Units, by Dwelling Unit Type

multiplied by

School Impact Fee for Each Dwelling Unit Type

less

the value of any in-kind contributions proposed by the developer and accepted by the school district, as provided in this chapter.

(Ord. 2339 § 1, 2000; Ord. 2332 § 1, 2000; Ord. 2316 § 1, 2000; Ord. 2306 § 1, 1999; Ord. 2213 § 1, 1998).

18C.10.020 Impact fee schedule – Exemptions.

Subject to the provisions of this title, the school impact fees specified in each district's capital facilities plan and adopted by the council shall constitute the city's schedule of school impact fees. The department shall, for the convenience of the public, keep available an information sheet summarizing the schedule of school impact fees applicable throughout the city. (Ord. 2471 § 2, 2003; Ord. 2213 § 1, 1998).

18C.10.030 Service areas established.

For purposes of calculating and imposing school impact fees for various land use categories per unit of development, the geographic boundary of each district constitutes a separate service area. (Ord. 2213 § 1, 1998).

18C.10.040 Impact fee limitations.

(1) School impact fees shall be imposed for district capital facilities that are reasonably related to the development under consideration, shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the development, and shall be used for system improvements that will reasonably benefit the new development.

(2) School impact fees must be expended or encumbered for a permissible use within six years of receipt by the district.

(3) To the extent permitted by law, school impact fees may be collected for capital facilities costs previously incurred to the extent that new growth and development will be served by the previously constructed capital facilities; provided, that school impact fees shall not be imposed to make up for any existing system deficiencies.

(4) A developer required to pay a fee pursuant to RCW 43.21C.060 for capital facilities shall not be required to pay a school impact fee pursuant to RCW 82.02.050 through 82.02.090 and this title for the same capital facilities. (Ord. 2213 § 1, 1998).

18C.10.050 Fee determination.

(1) On or before the time of development approval, the city shall determine whether school impact fees will be due pursuant to this chapter. Where such fees are due, the development approval shall state that the payment of school impact fees will be required prior to issuance of building permits. The amount of the impact fee due shall be based on the fee schedules in effect at the time a building permit application is accepted by the city. The impact fees shall be paid on or before the time of building permit issuance.

(2) Credit amounts and allocation of credits to be applied against the fees shall be determined at the time of development approval in accordance with MMC 18C.10.070.

(3) The final determination of a development activity's fee obligation under this chapter shall include any credits for in-kind contributions provided under MMC 18C.10.070. Final determinations of the amounts of the fee or credit due may be appealed pursuant to the procedures established in Chapter 18C.14 MMC. (Ord. 2339 § 2, 2000; Ord. 2331 § 1, 2000; Ord. 2213 § 1, 1998).

18C.10.060 Credit for in-kind contributions/existing lots.

(1) A developer may request and the director may grant a credit against school impact fees otherwise due under this title for the value of any dedication of land, improvement to, or new construction of any capital facilities identified in the district's capital facilities plan provided by the developer. Such requests must be accompanied by supporting documentation of the estimated value of such in-kind contributions. All requests must be submitted to the department in writing prior to its determination of the impact fee obligation for the development activity. Each request for credit will be immediately forwarded to the affected school district for its evaluation.

(2) Where a district determines that a development activity is eligible for a credit for a proposed in-kind contribution, it shall provide the department and the developer with a letter setting forth the justification for and dollar amount of the credit, the legal description of any dedicated property, and a description of the development activity to which the credit may be applied. The value of any such credit may not exceed the impact fee obligation of the development activity in question.

(3) Where there is agreement between the developer and the school district concerning the value of proposed in-kind contributions, their eligibility for a credit, and the amount of any credit, the director may (a) approve the request for credit and adjust the impact fee obligation accordingly, and (b) require that such contributions be made as a condition of development approval. Where there is disagreement between the developer and the school district regarding the value of in-kind contributions, however, the director may render a decision that can be appealed by either party pursuant to the procedures in Chapter 18C.14 MMC.

(4) For subdivisions, PRDs and other large-scale developments where credits for in-kind contributions or pre-existing lots are proposed or required, it may be appropriate or necessary to establish the value of the credit on a per-unit basis as a part of the development approval. Such credit values will then be recorded as part of the plat or other instrument of approval and will be used in determining the fee obligation, if any, at the time of building permit application for the development activity. In the event that such credit value is greater than the impact fee in effect at the time of permit application, the fee obligation shall be considered satisfied, and the balance of the credit may be transferable to future developments by the applicant within the same school district by agreement with the school district. (Ord. 2213 § 1, 1998).

18C.10.070 SEPA mitigation and other review.

(1) The city shall review development proposals and development activity permits pursuant to all applicable state and local laws and regulations, including the State Environmental Policy Act (Chapter 43.21C RCW), the state subdivision law (Chapter 58.17 RCW), and the applicable sections of the Marysville Municipal Code. Following such review, the city may condition or deny development approval as necessary or appropriate to mitigate or avoid significant adverse impacts to school services and facilities, to assure that appropriate provisions are made for schools, school grounds, and safe student walking conditions, and to ensure that development is compatible and consistent with each district's services, facilities and capital facilities plan.

(2) Impact fees required by this chapter for development activity, together with compliance with development regulations and other mitigation measures offered or imposed at the time of development review and development activity review, shall constitute adequate mitigation for all of a development's specific adverse environmental impacts on the school system for the purposes of Chapter 19.22 MMC. Nothing in this chapter prevents a determination of significance from being issued, the application of new or different development regulations, and/or requirements for additional environmental analysis, protection, and mitigation measures to the extent required by applicable law. (Ord. 2213 § 1, 1998).

Chapter 18C.12

IMPACT FEE ACCOUNTING

Sections:

18C.12.010 Collection and transfer of fees, fund authorized and created.
18C.12.020 Use of funds.
18C.12.030 Refunds.
18C.12.040 Reimbursement for city administrative costs, legal expenses, and refund payments.

18C.12.010 Collection and transfer of fees, fund authorized and created.

(1) School impact fees shall be due and payable to the city by the developer at or before the time of issuance of residential building permits for all development activities.

(2) In conjunction with the adoption of the city budget, there is hereby authorized the creation and establishment of a fund to be designated the "school impact fee fund." The city shall temporarily deposit all impact fees collected on behalf of a district pursuant to this chapter and any interest earned thereon in the school impact fee fund with specific organizational identity for a district until the transfer of the fees to the school district's school impact fee account pursuant to the interlocal agreement between the city and the district.

(3) Districts eligible to receive school impact fees collected by the city shall establish an interest-bearing account separate from all other district accounts. The city shall deposit school impact fees in the appropriate district account within 10 days after receipt, and shall contemporaneously provide the receiving district with a notice of deposit.

(4) Each district shall institute a procedure for the disposition of impact fees and providing for annual reporting to the city that demonstrates compliance with the requirements of RCW 82.02.070, and other applicable laws. (Ord. 2213 § 1, 1998).

18C.12.020 Use of funds.

(1) School impact fees may be used by the district only for capital facilities that are reasonably related to the development for which they were assessed and may be expended only in conformance with the district's adopted capital facilities plan.

(2) In the event that bonds or similar debt instruments are issued for the advance provision of capital facilities for which school impact fees may be expended, and where consistent with the provisions of the bond covenants and state law, school impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the capital facilities provided are consistent with the requirements of this title.

(3) The responsibility for assuring that school impact fees are used for authorized purposes rests with the district receiving the school impact fees. All interest earned on a school impact fee account must be retained in the account and expended for the purpose or purposes for which the school impact fees were imposed, subject to the provisions of MMC 18C.12.030.

(4) Each district shall provide the city an annual report showing the source and the amount of school impact fees received by the district and the capital facilities financed in whole or in part with those school impact fees. (Ord. 2213 § 1, 1998).

18C.12.030 Refunds.

(1) School impact fees not spent or encumbered within six years after they were collected shall, upon receipt of a proper and accurate claim, be refunded, together with interest, to the then current owner of the property. In determining whether school impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. At least annually, the city, based on the annual report received from each district pursuant to MMC 18C.12.020(4), shall give notice to the last known address of potential claimants of any funds, if any, that it has collected that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.

(2) Refunds provided for under this section shall be paid only upon submission of a proper claim pursuant to city claim procedures. Such claims must be submitted to the director within one year of the date the right to claim the refund arises, or the date of notification provided for above, where applicable, whichever is later. (Ord. 2213 § 1, 1998).

18C.12.040 Reimbursement for city administrative costs, legal expenses, and refund payments.

Each participating school district shall enter into an agreement with the city of Marysville providing for such matters as the collection, distribution and expenditure of fees and for reimbursement of any legal expenses and staff time associated with defense of this chapter as more specifically set forth in an interlocal agreement between the city and a school district, and payment of any refunds provided under MMC 18C.12.030. The city's costs

of administering the impact fee program shall be paid by the applicant to the city as part of the development application fee. Said fee shall be as set forth in Chapter 19.60 MMC and shall be an amount that approximates, as nearly as possible, the actual administrative costs of administering the school impact fee program. (Ord. 2213 § 1, 1998).

Chapter 18C.14

ADJUSTMENTS – APPEALS – ARBITRATION

Sections:

18C.14.010 Administrative adjustment of fee amount.
18C.14.020 Appeals of decisions – Procedure.
18C.14.030 Arbitration of disputes.

18C.14.010 Administrative adjustment of fee amount.

(1) Within 14 days of acceptance by the city of a building permit application a developer or school district may appeal to the director for an adjustment to the fees imposed by this title. The director may adjust the amount of the fee, in consideration of studies and data submitted by the developer and any affected district, if one of the following circumstances exists:

(a) It can be demonstrated that the school impact fee assessment was incorrectly calculated;

(b) Unusual circumstances of the development activity demonstrate that application of the school impact fee to the development would be unfair or unjust;

(c) A credit for in-kind contributions by the developer, as provided for under MMC 18C.10.060, is warranted; or

(d) Any other credit specified in RCW 82.02.060(1)(b) may be warranted.

(2) To avoid delay pending resolution of the appeal, school impact fees may be paid under protest in order to obtain a development approval.

(3) Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to MMC 18C.14.020. (Ord. 2213 § 1, 1998).

18C.14.020 Appeals of decisions – Procedure.

(1) Any person aggrieved by a decision applying an impact fee under this title to a development activity may appeal such decision to the hearing examiner pursuant to the provisions of Chapter 15.11 MMC. Where there is an administrative appeal process for the underlying development approval, appeals of an impact fee under this title must be combined with the administrative appeal for the underlying development approval. Where there is no administrative appeal for the permit, then appeals solely of the impact fee issue shall be subject to the provisions of Chapter 15.11 MMC.

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a

preponderance of the evidence. The impact fee may be modified upon a determination that it is proper to do so based on the application of the criteria contained in MMC 18C.14.010. Appeals shall be limited to application of the impact fee provisions to the specific development activity and the provisions of this title shall be presumed valid.

(3) The decision of the hearing examiner pursuant to subsection (1) of this section shall be final and conclusive with an optional right of reconsideration as provided in MMC 15.09.060 and may then be reviewable by filing a land use petition in Snohomish County superior court as provided in Chapter 36.70C RCW, the Land Use Petition Act. (Ord. 2213 § 1, 1998).

18C.14.030 Arbitration of disputes.

With the consent of the developer and the affected district, a dispute regarding imposition or calculation of a school impact fee may be resolved by arbitration. (Ord. 2213 § 1, 1998).

Chapter 18C.16

SEVERABILITY AND SAVINGS

Sections:

18C.16.010 Savings clause – Effective date – Emergency.

18C.16.010 Savings clause – Effective date – Emergency.

(1) If any section, subsection, sentence, clause, phrase or word of this title 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 title.

(2) Effective Date. The ordinance codified in this title shall be effective five days following adoption and publication; provided, however, the schedule of school impact fees adopted herein shall not be effective until the approval and incorporation by reference as a subelement of the city's comprehensive plan, a school district's capital facilities plan. The schedule of school impact fees adopted herein shall also not be effective until approval by the city and the affected school district of an interlocal agreement for the collection, distribution and expenditure of school impact fees.

(3) Emergency. In light of the rapid rate of development in the Marysville School District and the need to provide school facilities to serve development, an emergency is hereby (declared to exist due to the fiscal impacts of delay on the district and in order to preserve the public health, safety and welfare. (Ord. 2213 § 1, 1998).

Title 19

ZONING

Chapters:

19.02 Authority, Purpose, Interpretation and Administration
19.04 Zones, Maps and Designations
19.06 Technical Terms and Land Use Definitions
19.08 Permitted Uses
19.12 Development Standards – Density and Dimensions
19.14 Development Standards – Design Requirements
19.16 Development Standards – Landscaping
19.18 Development Standards – Parking and Circulation
19.20 Sign Code
19.22 Procedures and Policies for Implementing the State Environmental Policy Act
19.24 Critical Areas Management
19.26 Residential Density Incentives
19.28 Clearing, Grading, Filling, and Erosion Control
19.32 Home Occupations
19.34 Accessory Dwelling Units
19.36 Bed and Breakfasts
19.37 Freeway Service Zone
19.38 Development Standards – Mobile Home Parks
19.40 Development Standards – Recreational Vehicle Parks
19.42 Development Standards – Industrial and Business Parks
19.43 Wireless Communication Facilities
19.44 Nonconformance and Temporary Uses
19.45 Recreational Vehicles and Travel Trailers – Temporary Permits
19.46 Special Districts and Overlay Zones
19.48 Planned Residential Developments
19.50 Application Requirements
19.52 Review Procedures
19.54 Decision Criteria
19.55 Siting Process for Essential Public Facilities
19.56 Amendments
19.58 Enforcement
19.60 Planning, Zoning and Land Use Fees

Chapter 19.02

AUTHORITY, PURPOSE, INTERPRETATION AND ADMINISTRATION

Sections:

19.02.010 Title.
19.02.020 Authority to adopt code.
19.02.030 Purpose.
19.02.040 Conformity with this title required.
19.02.050 Minimum requirements.
19.02.060 Interpretation – General.
19.02.070 Interpretation – Classification and definitions.
19.02.080 Interpretation – Zoning maps.
19.02.090 Administration and review authority.
19.02.100 Severability.

19.02.010 Title.

This title shall be known as the city of Marysville zoning code, hereinafter referred to as "this title." (Ord. 2131, 1997).

19.02.020 Authority to adopt code.

The city of Marysville zoning code is adopted by city of Marysville ordinance, pursuant to the Washington State Constitution and Chapter 35A.63 RCW. (Ord. 2131, 1997).

19.02.030 Purpose.

The general purposes of this title are:

(1) To establish regulatory procedures and standards for review and approval of all proposed development in the city.

(2) To foster and preserve public health, safety, comfort, and welfare, and to aid in the harmonious, orderly, aesthetically pleasing, and socially and economically beneficial development of the city, in accordance with the comprehensive plan.

(3) To adopt a development review process that is:

(a) Efficient, in terms of time and expense;

(b) Effective, in terms of addressing the natural, historic, and aesthetic resources and public facility implications of any proposed development, while also protecting and improving the quality of life in the city; and

(c) Equitable, in terms of consistency with established regulations and procedures, respect for the rights of all property owners, and consideration of the interests of the citizens and residents of the city.

(4) To implement the comprehensive plan of the city by:

(a) Establishing regulations and conditions governing the erection and future use of buildings and other structures and the uses of land planned for the future as specified in the comprehensive plan;

(b) Securing safety from fire, panic, and other dangers;

(c) Lessening automobile congestion of the streets;

(d) Providing for adequate light and air;

(e) Preventing overcrowding of land;

(f) Avoiding undue congestion of population and facilitating the adequate provision of transportation, potable water, wastewater disposal, schools, parks, and other public requirements of the city;

(g) Dividing the city into zoning districts, defining certain terms, designating the uses and intensities thereof that are permitted in the different districts, and providing lot size and other dimensional and density requirements;

(h) Establishing performance standards that apply to all new development as well as the redevelopment of all lands in the city; and

(i) Defining the functions of the planning department, hearing examiner and city council and other relevant agencies with respect to the administration and enforcement of this development code.

(5) To be consistent with the city of Marysville's comprehensive plan by ensuring that all development in the city will be served by adequate public facilities.

(6) To provide for a penalty for the violation of this development code.

(7) To minimize and/or avoid public nuisances by preventing incompatible uses from locating adjacent or within close proximity to one another, and/or by conditioning certain uses in particular circumstances, thereby restricting those aspects of the uses that may be incompatible.

(8) To encourage land use decision making in accordance with the public interest and applicable laws of the state of Washington.

(9) To promote general public safety by regulating development of lands containing physical hazards and to minimize the adverse environmental impacts of development. (Ord. 2131, 1997).

19.02.040 Conformity with this title required.

(1) No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.

(2) Creation of or changes to lot lines shall conform with the use provisions, dimensional and other standards, and procedures of this title.

(3) All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between this title and other city regulations, the more restrictive requirements shall apply.

(4) Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply. (Ord. 2131, 1997).

19.02.050 Minimum requirements.

In interpretation and application, the requirements set forth in this title shall be considered the minimum requirements necessary to accomplish the purposes of this title. (Ord. 2131, 1997).

19.02.060 Interpretation – General.

(1) In case of inconsistency or conflict, regulations, conditions or procedural requirements that are specific to an individual land use shall supersede regulations, conditions or procedural requirements of general application.

(2) A land use includes the necessary structures to support the use unless specifically prohibited or the context clearly indicates otherwise, subject to other standards in code and any required permits for structures.

(3) Chapter and section headings, captions, illustrations and references to other sections or titles are for reference or explanation only and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section. In case of any ambiguity, difference of meaning or implication between the text and any heading, caption or illustration, the text and the permitted use tables in Chapter 19.08 MMC shall control. All applicable requirements shall govern a use whether or not they are cross-referenced in a text section or land use table.

(4) The word "shall" is mandatory and the word "may" is discretionary.

(5) Unless the context clearly indicates otherwise, words in the present tense shall include past and future tense, and words in the singular shall include the plural, or vice versa. Except for words and terms defined in this title, all words and terms used in this title shall have their customary meanings. (Ord. 2131, 1997).

19.02.070 Interpretation – Classification and definitions.

(1) The planning director shall determine whether a proposed land use is allowed in a zone. The Standard Industrial Classification Manual (SIC), current edition, prepared by United States Office of Management and Budget, and the New Illustrated Book of Development Definitions, prepared by Moskowitz and Lindbloom, will be used as reference guides in the classification and/or interpretation of a proposed use.

(2) The planning director's determination shall be based on whether or not permitting the proposed use in a particular zone is consistent with the purposes of this title and the zone's purpose as set forth in Chapter 19.04 MMC, by considering the following factors:

(a) The physical characteristics of the use and its supporting structures, including but not limited to scale, traffic and other impacts, and hours of operation;

(b) Whether or not the use complements or is compatible with other uses permitted in the zone; and

(c) The SIC classification, if any, assigned to the business or other entity that will carry on the primary activities of the proposed use.

(3) The decision of the planning director shall be final unless the applicant or an adverse party files an appeal to the hearing examiner pursuant to MMC 19.42.090. (Ord. 2575 § 1, 2005; Ord. 2526 § 1, 2004; Ord. 2131, 1997).

19.02.080 Interpretation – Zoning maps.

Where uncertainties exist as to the location of any zone boundaries, the following rules of interpretation, listed in priority order, shall apply:

(1) Where district boundaries are indicated as approximately following street lines, alley lines, or lot lines, such lines shall be construed to be such boundaries.

(2) Where boundaries are indicated as following approximately lot lines, the actual lot lines shall be considered the boundaries. In subdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

(3) Where boundaries are indicated as following lines of ordinary high water, or government meander line, the lines shall be considered to be the actual boundaries. If these lines should change the boundaries shall be considered to move with them.

(4) Where any street, road or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall

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apply to that portion of such street, road or alley added to the property by virtue of such vacation or abandonment.

(5) All land hereafter annexed to the city shall be zoned consistent with the comprehensive plan designation previously assigned to the property by the city of Marysville. In the event the property does not have a comprehensive plan designation assigned to it by the city of Marysville, it shall be designated R-4.5 as an interim zoning classification, until such time when the city amends its comprehensive plan and assigns a land use designation and corresponding zoning to the property. (Ord. 2526 § 2, 2004; Ord. 2131, 1997).

19.02.090 Administration and review authority.

(1) The hearing examiner shall have authority to hold public hearings and make decisions and recommendations on variances, reclassification, subdivisions and other development proposals, and appeals, as set forth in the MMC.

(2) The planning director shall have the authority to grant, condition or deny applications for temporary use permits and conditional use permits, unless a public hearing is required as set forth in Chapter 19.52 MMC, in which case this authority shall be exercised by the hearing examiner.

(3) The city building official shall have authority to grant, condition or deny commercial and residential building permits, and clearing and grading permits in accordance with the procedures set forth in Chapter 19.52 MMC.

(4) Except for other agencies with authority to implement specific provisions of this title, the planning director shall have the sole authority to issue official interpretations of this title.

(5) The planning director is hereby authorized after the date of the adoption of this ordinance to incorporate drawings as necessary for the purpose of illustrating concepts and regulatory standards contained in this title; provided, that the adopted provisions of the code shall control. (Ord. 2131, 1997).

19.02.100 Severability.

Should any chapter, section, subsection, paragraph, sentence, clause or phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this title. (Ord. 2131, 1997).

Chapter 19.04

ZONES, MAPS AND DESIGNATIONS

Sections:

19.04.010 Intent.
19.04.020 Zones and map designations established.
19.04.030 Zoning maps and boundaries.
19.04.040 Zone and map designation purpose.
19.04.050 Reserved.
19.04.060 Rural use zone.
19.04.070 Reserved.
19.04.080 Residential zone.
19.04.090 Neighborhood business zone.
19.04.100 Community business zone.
19.04.110 General commercial zone.
19.04.120 Downtown commercial zone.
19.04.130 Mixed use zone.
19.04.140 Light industrial zone.
19.04.150 General industrial zone.
19.04.160 Business park zone.
19.04.170 Small farms overlay zone.
19.04.180 Waterfront overlay zone.
19.04.190 Adult facilities overlay zone.
19.04.200 *Repealed.*
19.04.210 Recreation zone.
19.04.220 Public/institutional zone.

19.04.010 Intent.

The purpose of this chapter and Chapters 19.08 through 19.48 MMC is to establish districts wherein compatible uses of land may be located and grouped to create, protect or maintain a living environment for the citizens of Marysville. Three broad categories of uses are established, residential, commercial and industrial, and it is the intent of this chapter and Chapters 19.08 through 19.48 MMC to stabilize and protect the uses contained within these districts. An effort will be made to exclude mutually interfering uses, and in particular, to promote residential harmony with surrounding areas of the community. However, it is recognized that certain uses, though perhaps inherently commercial, are better suited to industrial areas of the city. As a result, certain additional overlay zones may be created to allow the location of commercial businesses in industrial zones. It is also the purpose of the classifications in this chapter and Chapters 19.08 through 19.48 MMC to make it possible to more efficiently and economically design and install all physical public service facilities in terms of size and capacity to adequately and permanently meet needs resulting

from a defined intensity of land use and to provide for the health, safety, morals, prosperity and well-being of the community at large. (Ord. 2131, 1997).

19.04.020 Zones and map designations established.

In order to accomplish the purposes of this title the following zoning designations and zoning map symbols are established:

ZONING DESIGNATIONS	MAP SYMBOL
Rural Use	RU (2.3-acre)
Residential	R (base density in dwellings per acre)
Neighborhood Business	NB
Community Business	CB
General Commercial	GC
Downtown Commercial	DC
Mixed Use	MU
Light Industrial	LI
General Industrial	GI
Business Park	BP
Recreation	REC
Waterfront Overlay	-WF (suffix to zone's map symbol)
Small Farms Overlay	-SF (suffix to zone's map symbol)
Property-specific development standards	-P (suffix to zone's map symbol)

(Ord. 2266 § 1, 1999; Ord. 2131, 1997).

19.04.030 Zoning maps and boundaries.

The locations and boundaries of the zoning districts shall be as shown on the map entitled "Official Zoning Map, Marysville, Washington." The map shall be prepared by the Marysville planning commission after conducting hearings on zoning of the city to implement the city's comprehensive plan and this title. The official zoning map and all the notations, references, amendments thereto and other information shall, upon completion, be made a part of this title, just as if such information set forth on the map was fully described and set out herein. The official zoning map attested by the signature of the mayor and the city clerk, with the seal of the municipality affixed, shall be kept on file in the office of the city clerk, and shall be available for inspection by the public. (Ord. 2131, 1997).

19.04.040 Zone and map designation purpose.

The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in the city of Marysville. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title. (Ord. 2131, 1997).

19.04.050 Reserved.

(Ord. 2131, 1997).

19.04.060 Rural use zone.

(1) The purpose of the rural use zone (RU) is to provide interim zoning control and to minimize land use conflicts with nearby agricultural, and higher density residential districts. These purposes are accomplished by:

(a) Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and are able to be adequately supported by rural service levels;

(b) Allowing small scale farming and forestry activities and tourism and recreation uses which can be supported by rural service levels and which are compatible with rural character; and

(c) Increasing required setbacks to minimize conflicts with adjacent agriculture or mineral zones.

(2) This zone may also be applied to newly annexed territory so that low intensity land uses can be maintained until the orderly and timely process to select the appropriate zoning designation occurs. (Ord. 2131, 1997).

19.04.070 Reserved.

(Ord. 2131, 1997).

19.04.080 Residential zone.

(1) The purpose of the residential zone (R) is to implement comprehensive plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:

(a) Providing, in the R-4.5, R-6.5, and R-8 zones, for a mix of predominantly single detached dwelling units and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

(b) Providing, in the R-12, R-18, and R-28 zones, for a mix of predominantly apartment and townhome dwelling units and other development

types, with a variety of densities and sizes in locations appropriate for urban densities;

(c) Allowing only those accessory and complementary nonresidential uses that are compatible with residential communities; and

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(d) Establishing density designations to facilitate advanced area-wide planning for public facilities and services, and to protect environmentally sensitive sites from overdevelopment.

(2) Use of this zone is appropriate in residential areas designated by the comprehensive plan as follows:

(a) Urban lands that are served at the time of development, by adequate public sewers, water supply, roads and other needed public facilities and services; and

(b) The corresponding comprehensive plan designations are as follows:

R-4.5 = Medium density single-family
R-6.5 = High density single-family
R-8 = High density single-family, small lot
R-12 = Low density multiple-family
R-18 = Medium density multiple-family
R-28 = High density multiple-family
(Ord. 2131, 1997).

19.04.090 Neighborhood business zone.

(1) The purpose of the neighborhood business zone (NB) is to provide convenient daily retail and personal services for a limited service area and to minimize impacts of commercial activities on nearby properties. These purposes are accomplished by:

(a) Limiting nonresidential uses to those retail or personal services which can serve the everyday needs of a surrounding residential area;

(b) Allowing for a mix of housing and retail/service uses; and

(c) Excluding industrial and community/regional business-scaled uses.

(2) Use of this zone is appropriate in neighborhood centers designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.100 Community business zone.

(1) The purpose of the community business zone (CB) is to provide convenience and comparison retail and personal services for local service areas which exceed the daily convenience needs of adjacent neighborhoods but which cannot be served conveniently by larger activity centers, and to provide retail and personal services in locations within activity centers that are not appropriate for extensive outdoor storage or auto-related and industrial uses. These purposes are accomplished by:

(a) Providing for limited small-scale offices as well as a wider range of the retail, professional, governmental and personal services than are found in neighborhood business areas;

(b) Allowing for a mix of housing and retail/service uses; and

(c) Excluding commercial uses with extensive outdoor storage or fabrication and industrial uses.

(2) Use of this zone is appropriate in community commercial areas that are designated by the comprehensive plan and are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.110 General commercial zone.

(1) The purpose of the general commercial zone (GC) is to provide for the broadest mix of commercial, wholesale, service and recreation/cultural uses with compatible storage and fabrication uses, serving regional market areas and offering significant employment. These purposes are accomplished by:

(a) Encouraging compact development that is supportive of transit and pedestrian travel, through higher nonresidential building heights and floor area ratios than those found in CB zoned areas;

(b) Allowing for outdoor sales and storage, regional shopping areas and limited fabrication uses; and

(c) Concentrating large-scale commercial and office uses to facilitate the efficient provision of public facilities and services.

(2) Use of this zone is appropriate in general commercial areas that are designated by the comprehensive plan that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.120 Downtown commercial zone.

(1) The purpose of the downtown commercial zone (DC) is to provide for the broadest mix of comparison retail, service and recreation/cultural uses with higher density residential uses, serving regional market areas and offering significant employment. These purposes are accomplished by:

(a) Encouraging compact development that is supportive of transit and pedestrian travel, through higher nonresidential building heights and floor area ratios than those found in GC zoned areas;

(b) Allowing for regional shopping areas, and limited fabrication uses; and

(c) Concentrating large-scale commercial and office uses to facilitate the efficient provision of public facilities and services.

Use of this zone is appropriate in downtown commercial areas that are designated by the comprehensive plan that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.130 Mixed use zone.

(1) The purpose of the mixed use zone (MU) is to provide for pedestrian and transit-oriented high-density employment uses together with limited complementary retail and higher density residential development in locations within activity centers where the full range of commercial activities is not desirable. These purposes are accomplished by:

(a) Allowing for uses that will take advantage of pedestrian-oriented site and street improvement standards;

(b) Providing for higher building heights and floor area ratios than those found in the CB zone;

(c) Reducing the ratio of required parking to building floor area;

(d) Allowing for on-site convenient daily retail and personal services for employees and residents; and

(e) Minimizing auto-oriented, outdoor or other retail sales and services which do not provide for the daily convenience needs of on-site and nearby employees or residents.

(2) Use of this zone is appropriate in areas designated by the comprehensive plan for mixed use, or mixed use overlay, which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.140 Light industrial zone.

(1) The purpose of the light industrial zone (LI) is to provide for the location and grouping of non-nuisance-generating industrial enterprises and activities involving manufacturing, assembly, fabrication, processing, bulk handling and storage, research facilities, warehousing and limited retail uses. It is also a purpose of this zone to protect the industrial land base for industrial economic development and employment opportunities. These purposes are accomplished by:

(a) Allowing for a wide range of industrial and manufacturing uses;

(b) Establishing appropriate development standards and public review procedures for industrial activities with the greatest potential for adverse impacts; and

(c) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities.

(2) Use of this zone is appropriate in light industrial areas designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.150 General industrial zone.

(1) The purpose of the general industrial zone (GI) is to provide for the location and grouping of industrial enterprises and activities involving manufacturing, assembly, fabrication, processing, bulk handling and storage, research facilities, warehousing and heavy trucking and equipment but also for commercial uses having special impacts and regulated by other chapters of this title. It is also a purpose of this zone to protect the industrial land base for industrial economic development and employment opportunities. These purposes are accomplished by:

(a) Allowing for a wide range of industrial and manufacturing uses;

(b) Establishing appropriate development standards and public review procedures for industrial activities with the greatest potential for adverse impacts; and

(c) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities.

(2) Use of this zone is appropriate in general industrial areas designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.160 Business park zone.

(1) The purpose of the business park zone (BP) is to provide for those business/industrial uses of a professional office, wholesale, and manufacturing nature which are capable of being constructed, maintained and operated in a manner uniquely designed to be compatible with adjoining residential, retail commercial or other less intensive land uses, existing or planned. Strict zoning controls must be applied in conjunction with private covenants and unified control of land; many business/industrial uses otherwise provided for in the development code will not be suited to the BP zone

due to an inability to comply with its provisions and achieve compatibility with surrounding uses.

(2) Use of this zone is appropriate in business park areas designated by the comprehensive plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.04.170 Small farms overlay zone.

(1) The purpose of the small farms overlay zone (-SF suffix to zone's map symbol) is to provide a process for registering small farms, thereby applying the small farms overlaying zone and recording official recognition of the existence of the small farm, and to provide encouragement, for the preservation of such farms, as well as encouraging good neighbor relations between single-family and adjacent development.

(2) Use of this zone is appropriate for existing and newly designated small farms. (Ord. 2131, 1997).

19.04.180 Waterfront overlay zone.

(Reserved). (Ord. 2131, 1997).

19.04.190 Adult facilities overlay zone.

The purpose of establishing the adult facilities overlay zone is to permit the location of adult facilities in an area of the city which will reduce the secondary effects of such an establishment on the community. The performance criteria included in this zone are intended to control external as well as internal impacts of the development and bulk and special limitations in other chapters of the zoning code are superseded by the provisions of this chapter. It is the further purpose of this zone to prevent the location of adult facilities throughout the city by consolidating them in one area. Because of the unique character of this zone, and its potential to disrupt preexisting residential and commercial development in the community, the city will only consider classifying property in this zone if such property is designated on the comprehensive plan as general industrial and is suitable for adult facilities. (Ord. 2131, 1997).

19.04.200 Interim zoning.

Repealed by Ord. 2526. (Ord. 2131, 1997).

19.04.210 Recreation zone.

(1) The purpose of the recreation zone (REC) is to establish areas appropriate for public and private recreational uses. Recreation would permit passive as well as active recreational uses such as sports fields, ball courts, golf courses, and waterfront recreation, but not hunting. This zone would also permit some resource land uses related to agriculture and fish and wildlife management.

(2) This recreation zone is applied to all land designated as "Recreation" on the comprehensive plan map. (Ord. 2266 § 2, 1999).

19.04.220 Public/institutional zone.

(1) The purpose of the public/institutional (P/I) land use zone is to establish an overlay zone for governmental buildings, churches and public facilities.

(2) This public/institutional zone is applied to all land designated as "public/institutional" on the comprehensive plan map. (Ord. 2526 § 4, 2004).

Chapter 19.06

TECHNICAL TERMS AND LAND USE DEFINITIONS

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19.06.001 Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout the code as

well as definitions of land use shown in Chapter 19.08 MMC, Permitted Uses. See Chapter 19.02 MMC, Authority, Purpose, Interpretation and Administration, for rules on interpretation of the code, including use of these definitions. Development standards are found in Chapters 19.12 through 19.38 MMC. (Ord. 2131, 1997).

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19.06.003 Accessory use, commercial/ industrial.

"Accessory use, commercial/industrial" means:

(1) A use that is subordinate and incidental to a commercial or industrial use; including, but not limited to the following uses:

(a) Administrative offices;

(b) Employee exercise facilities;

(c) Employee food service facilities;

(d) Incidental storage of raw materials and finished products sold or manufactured on-site;

(e) Business owner or caretaker residence;

(f) Cogeneration facilities; and

(g) Ground maintenance facilities.

(2) Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. (Ord. 2131, 1997).

19.06.006 Accessory use, residential.

"Accessory use, residential" means:

(1) A use, structure, or activity which is subordinate and incidental to a residence including, but not limited to the following uses:

(a) Accessory living quarters and dwellings;

(b) Fallout/bomb shelters;

(c) Keeping household pets;

(d) On-site rental office;

(e) Pools, private docks, piers;

(f) Antennae for private telecommunication services;

(g) Storage of yard maintenance equipment; or

(h) Storage of private vehicles, e.g., motor vehicles, boats, trailers or planes.

(2) Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. (Ord. 2131, 1997).

19.06.009 Reserved.

(Ord. 2131, 1997).

19.06.012 Adult facility or facilities.

"Adult facility or facilities" means and includes an adult cabaret, adult drive-in theater, adult motion picture theater, adult panoram establishment, or body shampoo parlor. (Ord. 2131, 1997).

19.06.015 Adult cabaret.

"Adult cabaret" means a commercial establishment which presents go-go dancers, strippers, male or female impersonators, or similar entertainers and in which the patrons are exposed to "specified sexual activities" or "specified anatomical areas" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "adult cabaret" even though its patrons are members and it characterizes itself as a club, fraternal organization, church, society or otherwise. (Ord. 2447 § 1, 2002; Ord. 2131, 1997).

19.06.018 Adult drive-in theater.

"Adult drive-in theater" means a drive-in theater used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "adult drive-in theater" even though its patrons are members and it characterizes itself as a club, fraternal organization, church, society or otherwise. (Ord. 2446 § 1, 2002; Ord. 2131, 1997).

19.06.019 Adult family home.

"Adult family home" means the regular family abode of a person or persons who are providing personal care, room and board to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the Washington State Department of Social and Health Services determines that the home and the provider are capable of meeting standards and qualification provided for by law (RCW 70.128.010). (Ord. 2151 § 1, 1997).

19.06.020 Adult motion picture theater.

"Adult motion picture theater" means an enclosed building used for presenting for commercial purposes motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein. (Ord. 2131, 1997).

19.06.023 Adult panoram establishment or adult panoram.

"Adult panoram establishment" or "adult panoram" means a business in a building or portion of a building which contains device(s) which for pay-

ment of a fee, membership fee or other charge, is used to exhibit or display a picture, view, or other graphic display distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be an "adult panoram establishment" or "adult panoram" even though its patrons are members and it characterizes itself as a club, fraternal organization, church, society or otherwise. (Ord. 2445 § 1, 2002; Ord. 2131, 1997).

19.06.025 Reserved.
(Ord. 2131, 1997).

19.06.028 Agricultural crop sales.
"Agricultural crop sales" means the retail sale of fresh fruits, vegetables and flowers produced onsite. This use is frequently found in roadside stands or U-pick establishments. (Ord. 2131, 1997).

19.06.030 Alley.
"Alley" means an improved thoroughfare or right-of-way, whether public or private, usually narrower than a street, that provides vehicular access to an interior boundary of one or more lots, and is not designed for general traffic circulation. (Ord. 2131, 1997).

19.06.033 Anadromous fish.
"Anadromous fish" means fish that ascend to rivers from the sea for breeding, including salmon and trout. (Ord. 2131, 1997).

19.06.035 Animal, small.
"Animal, small" means any animal other than livestock or animals considered to be predatory or wild which are kept outside a dwelling unit all or part of the time. Animals considered predatory or wild shall be considered small animals when they are taken into captivity for the purposes of breeding, domestication, training, hunting or exhibition. (Ord. 2131, 1997).

19.06.038 Applicant.
"Applicant" means a property owner or any person, party, firm, partnership, corporation or entity acting as an agent for the property owner in an application for a development proposal, permit or approval. (Ord. 2131, 1997).

19.06.040 Automobile holding yard.
"Automobile holding yard" means a lot, parcel or part thereof used for the storage of motor vehicles. (Ord. 2131, 1997).

19.06.043 Automobile sales lot.
"Automobile sales lot" means any place outside a building where two or more automobiles are offered for sale or are displayed. (Ord. 2131, 1997).

19.06.045 Automobile wrecking yard.
"Automobile wrecking yard" means a lot, land or structure, or part thereof, used for the collecting, dismantling, storage, salvaging or sale of parts of machinery or vehicles not in running condition. (Ord. 2131, 1997).

19.06.048 Base elevation.
"Base elevation" means the average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle which will enclose the proposed structure, excluding all eaves and decks. The approved topography of a parcel is the natural topography of a parcel or the topographic conditions approved by the city prior to August 10, 1969, or as approved by a subdivision, short subdivision, binding site plan, shoreline substantial development permit, filling and grading permit or SEPA environmental review issued after August 10, 1969. An approved benchmark will establish the relative elevation of the four points used to establish the base elevation. (Ord. 2131, 1997).

19.06.050 Bed and breakfast guesthouse.
"Bed and breakfast guesthouse" means a facility in which one kitchen, a shared dining area, and not more than a total of three guest rooms are available within a single-family residence and/or one outbuilding, providing short-term lodging for paying guests. (Ord. 2131, 1997).

19.06.053 Bed and breakfast inn.
"Bed and breakfast inn" means a facility in which one kitchen, a shared dining area, and not more than a total of six guest rooms are available within a single-family residence and/or one outbuilding, providing short-term lodging for paying guests. (Ord. 2131, 1997).

19.06.055 Reserved.
(Ord. 2131, 1997).

19.06.058 Boathouse.

"Boathouse" means a structure specifically designed or used for storage of boats. (Ord. 2131, 1997).

19.06.060 Body shampoo parlor.

"Body shampoo parlor" means any place open to the public where an attendant is present and a patron's body is washed or shampooed regardless of the form of its business organization whether proprietorship, partnership, corporation or other form, and regardless whether the organization is for profit or not. An organization may be a "body shampoo parlor" even though its patrons are members and it characterizes itself as a club, fraternal organization, church, society or otherwise. A body shampoo parlor shall not include any barber or beauty salon, medical facility or nursing home facility where a customer or patient may be washed, shaved and/or shampooed. (Ord. 2444 § 1, 2002; Ord. 2131, 1997).

19.06.063 Building.

"Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this title requires that a use shall be within an entirely enclosed building, then "building" means one so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed. (Ord. 2131, 1997).

19.06.065 Building appurtenance.

"Building appurtenance" means chimneys, steeples, television and radio antennas, ham radio antennas, flagpoles and vent pipes in any zone, and mechanical systems on structures in zones other than single-family zones. (Ord. 2131, 1997).

19.06.068 Building area.

"Building area" means the total ground coverage of a building or structure which provides shelter measured from the outside of its external walls or supporting members. (Ord. 2131, 1997).

19.06.070 Building envelope.

"Building envelope" means the area of a lot within which a structure may be placed and that is defined by minimum setbacks. (Ord. 2131, 1997).

19.06.071 Building facade.

"Building facade" means the front of the building and any street wall face. (Ord. 2151 § 1, 1997).

19.06.073 Building height.

"Building height" means the vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances. (Ord. 2131, 1997).

19.06.075 Building line.

"Building line" means the line of that face, corner, roof or part of a building nearest the property line. (Ord. 2131, 1997).

19.06.078 Building official.

"Building official" means the supervisor of the building division, or his or her designee. (Ord. 2131, 1997).

19.06.080 Bulk retail.

"Bulk retail" means an establishment offering the sale of bulk goods to the general public, including limited sales to wholesale customers. These establishments may include a variety of lines of merchandise such as food, building, hardware and garden materials, dry goods, apparel and accessories, home furnishings, housewares, drugs, auto supplies, hobby, toys, games, photographic, and electronics. (Ord. 2131, 1997).

19.06.083 Carport.

"Carport" means a structure to house or protect motor vehicles owned or operated by the occupants of the main building, and which has at least 40 percent of the total area of its sides open to the weather. (Ord. 2131, 1997).

19.06.085 Certificate of occupancy.

"Certificate of occupancy" means a permit to occupy a premises issued by the building official after inspection has verified compliance with the requirements and provisions of this title and applicable building codes. (Ord. 2131, 1997).

19.06.087 Change of occupancy.

A "change of occupancy" is a change of use from one major land use category to another, and shall be determined to have occurred when it is found that the general character of the operation has been modified and results in an intensification of land use that will require new development conditions to comply with existing regulations. This determination shall include review of, but not be limited to:

(1) Hours of operation;
(2) Materials processed or sold;
(3) Required parking;
(4) Traffic generation;
(5) Impact on public utilities;
(6) Clientele; and
(7) General appearance and location. (Ord. 2417 § 1, 2002).

19.06.088 City.
For the purpose of the title, "city" shall be the city of Marysville. (Ord. 2131, 1997).

19.06.090 City standards.
"City standards" means the engineering design and development standards as published by the department of public works. (Ord. 2131, 1997).

19.06.093 Clearing.
"Clearing" means the removal of timber, brush, grass, groundcover or other vegetative matter from a site which exposes the earth's surface of the site. (Ord. 2131, 1997).

19.06.095 Clinic.
"Clinic" means a building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses. (Ord. 2131, 1997).

19.06.098 Club.
"Club" means an incorporated or unincorporated association of persons organized for a social, fraternal, athletic, educational, literary or charitable purpose. Property predominantly occupied by a club is semiprivate in character and shall be subject to the regulations governing public buildings and places, excluding groups organized primarily to render a service which is normally considered a business. (Ord. 2131, 1997).

19.06.100 Cogeneration.
"Cogeneration" means the sequential generation of energy and useful heat from the same primary source or fuel for industrial, commercial, or residential heating or cooling purposes. (Ord. 2131, 1997).

19.06.103 Commercial use.
"Commercial use" means an activity with goods, merchandise or services for sale or involving a rental fee, including any garage sale which fails to comply with one or more of the conditions specified in the definition thereof contained in this chapter. (Ord. 2131, 1997).

19.06.105 Commercial vehicle.
"Commercial vehicle" means a motor vehicle used for purposes other than a family car, such as a taxi, delivery or service vehicle. (Ord. 2131, 1997).

19.06.108 Communication facility, major.
Repealed by Ord. 2145. (Ord. 2131, 1997).

19.06.110 Communication facility, minor.
Repealed by Ord. 2145. (Ord. 2131, 1997).

19.06.112 Compensatory mitigation.
"Compensatory mitigation" means replacing project-induced losses or impacts to a critical area including, but not limited to, the following:
(1) Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.
(2) Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist.
(3) Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.
(4) Preservation – Actions taken to ensure the permanent protection of existing high-quality wetlands. (Ord. 2571 § 3, 2005).

19.06.113 Comprehensive plan.
"Comprehensive plan" means a document or series of documents adopted by city council that sets forth broad guidelines and policies for the development of the city. (Ord. 2131, 1997).

19.06.115 Conditional use.
"Conditional use" means a use permitted in one or more zones as defined by this title but which, because of characteristics peculiar to such use, or because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones. A conditional use is a form of special exception. (Ord. 2131, 1997).

19.06.118 Conditional use permit.
"Conditional use permit" means a permit granted by the city to locate a permitted use on a particular property subject to conditions placed on

the permitted use to ensure compatibility with nearby land uses. (Ord. 2131, 1997).

19.06.120 Reserved.
(Ord. 2131, 1997).

19.06.123 Critical habitat or critical wildlife habitat.

"Critical habitat" or "critical wildlife habitat" means habitat areas associated with threatened, endangered, sensitive, or priority species of plants, fish, or wildlife and which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term. Areas are documented with reference to lists, categories and definitions of species promulgated by the Washington Department of Wildlife (nongame data system special animal species) as identified in WAC 232-12-011 or 232-12-014 and in the priority habitat species lists compiled in compliance with WAC 365-190-080; or by rules and regulations adopted currently or hereafter by the U.S. Fish and Wildlife Service, copies of which are available at the community development department. Critical habitat also includes the following types of areas:

(1) Regionally rare native fish and wildlife habitat (i.e., one of five or fewer examples of the habitat type within the city of Marysville).

(2) Fish and wildlife areas with irreplaceable ecological functions, including the following:

(a) Estuarine marshes meeting any of the following criteria:

(i) The area is listed as a National Wildlife Refuge, National Park, National Estuary Reserve, Natural Area Preserve or any preserve or reserve designated under WAC 332-30-151;

(ii) The total area is five acres or greater and contains at least two estuarine wetland habitat classes; or

(iii) The total area is less than five acres and meets four of the following conditions:

(A) Area is greater than one acre;

(B) Contains at least two estuarine wetland classes;

(C) Shows minimum evidence of human-caused physical alteration, such as diking, filling, cultivating, etc.;

(D) Contains a functional tidal channel(s) or is connected to a tidal stream;

(E) Within a watershed that has few to moderate point or nonpoint water quality problems cited by the Department of Ecology; or

(F) Land adjacent to more than 75 percent of the area's border is agricultural or relatively undisturbed forest;

(b) Eelgrass and kelp beds (floating or nonfloating) with greater than 50 percent macroalgal cover during August or September;

(c) Category I wetlands as defined in MMC 19.24.100;

(d) Documented commercial and recreational shellfish beds managed by the Washington Department of Fisheries;

(e) State Nature Area Preserves or Natural Resource Conservation Areas identified by state law and managed by the Department of Natural Resources;

(f) Documented habitat or presence of threatened and endangered species;

(g) Documented habitat of regional or national significance for migrating birds;

(h) Naturally occurring ponds stocked with native game fish by government or tribal entities, and naturally occurring ponds greater than one acre and less than 20 acres in area, not more than 50 percent of which is covered by emergent aquatic vegetation, shrubs or trees, and whose maximum depth does not exceed 6.6 feet. (Ord. 2571 § 3, 2005; Ord. 2131, 1997).

19.06.125 Day care.

"Day care" means an establishment for group care of nonresident adults or children.

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(1) Day care shall include, but not be limited to, child day care services, adult day care centers and the following:

(a) Adult day care, such as adult day health centers or social day care as defined by the Washington State Department of Social and Health Services;

(b) Nursery schools for children under minimum age for education in public schools;

(c) Privately conducted kindergartens or prekindergartens when not a part of a public or parochial school; and

(d) Programs covering after-school care for school children.

(2) Day care establishments are subclassified as follows:

(a) Day care I – A facility licensed by the State Department of Social and Health Services to provide day care to a maximum of 12 adults or children in any 24-hour period; and

(b) Day care II – A facility licensed by the State Department of Social and Health Services to provide day care to over 12 adults or children in any 24-hour period. (Ord. 2151 § 2, 1997; Ord. 2131, 1997).

19.06.128 Deciduous.

"Deciduous" means a plant species with foliage that is shed annually. (Ord. 2131, 1997).

19.06.130 Department.

"Department" means the city of Marysville planning and building department. (Ord. 2131, 1997).

19.06.133 Detached building.

"Detached building" means a building surrounded on all sides by open space. (Ord. 2131, 1997).

19.06.135 Development.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. (Ord. 2131, 1997).

19.06.138 Dock.

"Dock" means a basin for moorage of boats, including a basin formed between the extension of two piers or the area between a bank or quay and a pier. Docking facilities may include wharves, moorage or docks or any place or structure connected with the shore or upon shorelands provided for the securing of a boat or vessel. (Ord. 2131, 1997).

19.06.140 Drop box facility.

"Drop box facility" means a facility used for receiving solid waste and recyclables from off-site sources into detachable solid waste containers, including the adjacent areas necessary for entrance and exit roads, unloading and vehicle turnaround areas. Drop box facilities normally service the general public with loose loads and may also include containers for separated recyclables. (Ord. 2131, 1997).

19.06.143 Dwelling unit.

"Dwelling unit" means one or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling's occupant; including but not limited to bachelor, efficiency and studio apartments, factory-built housing and mobile homes. (Ord. 2131, 1997).

19.06.145 Dwelling unit, accessory.

"Dwelling unit, accessory" means a separate, complete dwelling unit attached, detached, or contained within the structure of the primary dwelling. (Ord. 2131, 1997).

19.06.148 Dwelling unit, multifamily.

A building containing three or more dwelling units, or units when above a ground floor commercial use. The term includes triplexes, four-plexes, apartments, condominiums and the like. It does not include boarding houses, motels or hotels. (Ord. 2151 § 3, 1997; Ord. 2131, 1997).

19.06.150 Dwelling unit, senior citizen assisted.

"Dwelling unit, senior citizen assisted" means a building containing two or more dwelling units restricted to occupancy by senior citizens, and including, but not limited to the following support services, as deemed necessary:

(1) Food preparation and dining areas;
(2) Group activity areas;
(3) Medical supervision; and
(4) Similar activities. (Ord. 2131, 1997).

19.06.153 Dwelling unit, single-family detached.

"Dwelling unit, single-family detached" means a detached building designed for and occupied exclusively by one family and the household employees of that family. (Ord. 2131, 1997).

19.06.155 Dwelling unit, single-family attached.

"Dwelling unit, single-family attached" means a building containing not more than one dwelling unit attached at the side or sides in a series of two or more principal buildings each containing not more than one dwelling unit. Each building containing one dwelling unit shall be structurally independent of adjacent buildings except that the joints must be covered. Each dwelling shall have at least two private entrances with direct access to ground level. Each dwelling shall have a separate lot, or be so located on land in the same ownership that individual lots meeting the minimum dimensional requirements of this title could be provided. The term "attached dwelling" is intended to apply to townhouses, rowhouses, patio or atrium houses, or any form of single-family dwelling units which conform to this definition. (Ord. 2131, 1997).

19.06.158 Dwelling unit, two-family (duplex).

"Dwelling unit, two-family (duplex)" means a building designed to house two families living independently of each other and having a common yard. (Ord. 2131, 1997).

19.06.160 Earth station.

Repealed by Ord. 2145. (Ord. 2131, 1997).

19.06.163 Elderly.

"Elderly" means a person 62 years of age or older. (Ord. 2131, 1997).

19.06.165 Energy resource recovery facility.

"Energy resource recovery facility" means an establishment for recovery of energy in a usable form from mass burning or refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste. (Ord. 2131, 1997).

19.06.168 Environmentally sensitive areas.

"Environmentally sensitive areas" means those areas regulated by Chapter 19.24 MMC, and their buffers. (Ord. 2131, 1997).

19.06.170 Reserved.

(Ord. 2131, 1997).

19.06.173 Equipment, heavy.

"Equipment, heavy" means high-capacity mechanical devices for moving earth or other materials, and mobile power units including, but not limited to:

(1) Carryalls;
(2) Graders;
(3) Loading and unloading devices;
(4) Cranes;
(5) Drag lines;
(6) Trench diggers;
(7) Tractors;
(8) Augers;
(9) Bulldozers;
(10) Concrete mixers and conveyers;
(11) Harvesters;
(12) Combines; or
(13) Other major agricultural equipment and similar devices operated by mechanical power as distinguished from manpower. (Ord. 2131, 1997).

19.06.175 Erosion.

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, rain, water and other natural agents which mobilize and transport soil particles. (Ord. 2131, 1997).

19.06.178 Erosion hazard areas.

"Erosion hazard areas" means lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion. Erosion hazard areas are classified as low hazard, moderate hazard and high hazard, based on the following criteria:

(1) Low Hazard. Areas sloping less than 15 percent.

(2) Moderate Hazard. Areas sloping between 15 and 40 percent and underlain by soils that consist predominantly of silt, clay, bedrock or glacial till.

(3) High Hazard. Areas sloping between 15 and 40 percent that are underlain by soils consisting largely of sand and gravel, and all areas sloping more steeply than 40 percent. (Ord. 2131, 1997).

19.06.180 Evergreen.

"Evergreen" means a plant species with foliage that persists and remains green year round. (Ord. 2131, 1997).

19.06.183 Existing and ongoing agricultural activities.

"Existing and ongoing agricultural activities" includes those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage and irrigation systems, changes between agricultural activities and uses, and normal operation, maintenance, repair, or reconstruction of existing serviceable structures, facilities or improved areas. Activities which bring an area into

agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition. (Ord. 2131, 1997).

19.06.185 Exotic species.

"Exotic species" means any species of plant or animal that is not indigenous to the area. (Ord. 2131, 1997).

19.06.188 Factory-built commercial building (modular).

"Factory-built commercial building (modular)" means any structure that is either entirely or substantially prefabricated or assembled at a place other than a building site; and designed or used for nonresidential human occupancy. Such structures meet all requirements of the Uniform Building Code. Once erected at the site, they are not mobile and are not considered to be mobile/manufactured homes. (Ord. 2131, 1997).

19.06.190 Factory-built housing (modular).

"Factory-built housing (modular)" means a structure constructed and partially assembled in a factory and transported to the building site for final erection. Such structures meet all requirements of the Uniform Building Code. Once erected at the site, they are not mobile and are not considered to be mobile/manufactured homes. (Ord. 2131, 1997).

19.06.193 Family.

"Family" means an individual, two or more persons related by blood or marriage, six or less unrelated persons, six or less related or unrelated persons, up to eight persons consisting of one or two adults and up to six persons under the age of 18 that may or may not be related, or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff. For purposes of this definition, minors living with parent or legal guardian shall not be counted as part of the maximum number of residents. (Ord. 2131, 1997).

19.06.195 Farm product processing.

"Farm product processing" means the processing and packaging of seasonally grown agricultural products or the cutting of flesh of domestic farm animals for individual customers, but shall not include their conversion to manufactured products. (Ord. 2131, 1997).

19.06.198 Federal manual, or federal methodology.

"Federal manual, or federal methodology" means the methodology for identifying wetlands in the field as described in the Corps of Engineers Wetlands Delineation Manual (January, 1987). (Ord. 2131, 1997).

19.06.200 Fence.

"Fence" means a barrier for the purpose of enclosing space or separating lots, composed of masonry or concrete walls, or posts connected by boards, rails, panels, wire or mesh. (Ord. 2131, 1997).

19.06.201 Fence, sight-obscuring.

The minimum for a "sight-obscuring fence" is a chainlink fence with permanently attached, woven slats in every row or available space of the fence. (Ord. 2417 § 1, 2002).

19.06.203 Reserved.

(Ord. 2131, 1997).

19.06.205 Fill.

"Fill" means the act of placing (by any manner or mechanism) fill material, to, or on any soil surface, sediment surface, or other fill material. (Ord. 2131, 1997).

19.06.208 Final site plan.

"Final site plan" means a drawing to scale, showing uses and structures proposed for a parcel of land as required by the regulations of this title, and approved by the city, which shall constitute an integral part of the approval process. (Ord. 2131, 1997).

19.06.210 Fish report.

"Fish report" means a report, prepared by a qualified consultant, that evaluates fish and aquatic animal communities and fish functions and values on a site, consistent with the format and requirements established by this chapter. (Ord. 2131, 1997).

19.06.213 Floor area.

"Floor area" means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the centerline of division walls. Floor area includes basement space, elevator shafts and stairwells at each floor, mechanical equipment

rooms or attic spaces with headroom of seven feet six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches. Floor area shall not include accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than seven feet six inches, exterior steps or stairs, terraces, breezeways and open spaces. (Ord. 2131, 1997).

19.06.215 Forest product sales.

"Forest product sales" means the sale of goods produced, extracted, consumed, gathered or harvested from a forest including, but not limited to:

(1) Trees;
(2) Wood chips;
(3) Logs;
(4) Fuelwood;
(5) Cones;
(6) Christmas trees;
(7) Berries;
(8) Herbs; or
(9) Mushrooms. (Ord. 2131, 1997).

19.06.218 Forest research.

"Forest research" means the performance of scientific studies relating to botany, hydrology, silviculture, biology and other branches of science in relation to management of forest lands, including but not limited to commercial physical and biological research, noncommercial research organizations, and testing laboratories. (Ord. 2131, 1997).

19.06.220 Garage, commercial.

"Garage, commercial" means a building or portion thereof designed and used for the storage, repair or servicing of motor vehicles or boats as a business. (Ord. 2131, 1997).

19.06.223 Garage sale.

"Garage sale" means the sale of used household personal items by the owner thereof. (Ord. 2131, 1997).

19.06.225 Gasoline service station.

"Gasoline service station" means any area of land, including the structures thereon, that is used for the sale of gasoline or other motor fuels, oils, lubricants and auto accessories and which may or may not include washing, lubricating and other minor servicing but not painting operation. (Ord. 2131, 1997).

19.06.228 General business service.

"General business service" means an establishment engaged in providing services to businesses or individuals, with no outdoor storage or fabrication, including but not limited to the following uses:

(1) Depository institutions;
(2) Nondepository credit institutions;
(3) Security and commodity brokers, dealers, exchanges, and services;
(4) Insurance carriers;
(5) Real estate;
(6) Holding and other investment offices;
(7) Miscellaneous personal services, not elsewhere classified;
(8) Business services and general office uses;
(9) Outdoor advertising services; and
(10) Membership organizations, including administrative offices of organized religions, but excluding churches and places of worship. (Ord. 2131, 1997).

19.06.230 Geologic hazard areas.

"Geologic hazard areas" means lands or areas characterized by geologic, hydrologic and topographic conditions that render them susceptible to potentially significant or severe risk of landslides, erosion, or seismic activity. (Ord. 2131, 1997).

19.06.233 Geologic hazard area maps.

"Geologic hazard area maps" means the geologic hazard area maps prepared for Snohomish County Tomorrow, July, 1991, and associated reports. The maps are adopted by the city of Marysville and indicate the potential presence of geologic hazards. (Ord. 2131, 1997).

19.06.235 Golf facility.

"Golf facility" means a recreational facility, under public or private ownership, designed and developed for uses including, but not limited to:

(1) A golf course;
(2) A driving range;
(3) Miniature golf;
(4) Pro shops;
(5) Caddyshack buildings;
(6) Restaurants;
(7) Office and meeting rooms; and
(8) Related storage facilities. (Ord. 2131, 1997).

19.06.238 Grading.

"Grading" means any excavating, filling, clearing, leveling, or contouring of the ground surface by human or mechanical means. (Ord. 2131, 1997).

19.06.240 Gross project area.
"Gross project area" means the total project site. (Ord. 2131, 1997).

19.06.243 Groundcover.
"Groundcover" means living plants designed to grow low to the ground (generally one foot or less) and intended to stabilize soils and protect against erosion. (Ord. 2131, 1997).

19.06.245 Group care facility.
Repealed by Ord. 2151. (Ord. 2131, 1997).

19.06.248 Habitat management.
"Habitat management" means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases. (Ord. 2131, 1997).

19.06.250 Habitat map.
"Habitat map" means the fish and wildlife conservation areas maps prepared for Snohomish County Tomorrow, July, 1991, and associated reports. The maps are adopted by the city of Marysville and indicate the potential presence of wildlife species. (Ord. 2131, 1997).

19.06.253 Hearing examiner.
"Hearing examiner" means the land use hearing examiner for the city. (Ord. 2131, 1997).

19.06.255 Home occupation.
"Home occupation" means any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit. (Ord. 2131, 1997).

19.06.258 Home, rest, convalescent, for the aged.
"Home, rest, convalescent, for the aged" means a home operated similarly to a boardinghouse but not restricted to any number of guests or guest rooms, and in which nursing, dietary and other personal services are furnished to convalescents, invalids and aged persons, but in which homes are kept no persons suffering from an acute mental sickness, or from a contagious or communicable disease, and in which homes are performed no surgery or other primary treatments such as are customarily provided in hospitals, and in which no persons are kept or served who normally would be admitted to a mental hospital. (Ord. 2131, 1997).

19.06.260 Hospital.
"Hospital" means an establishment which provides accommodations, facilities and services over a continuous period of 24 hours or more, for observation, diagnosis and care, of two or more individuals, not related by blood or marriage to the operator, who are suffering from illness, injury, deformity or abnormality, or from any condition requiring obstetrical, medical or surgical services. (Ord. 2131, 1997).

19.06.263 Hotel.
"Hotel" means a building, other than a motel, providing six or more rooms for public lodging especially for temporary guests, but which does not have cooking facilities in individual rooms. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care. (Ord. 2419 § 1, 2002; Ord. 2131, 1997).

19.06.265 Reserved.
(Ord. 2131, 1997).

19.06.268 Impervious surface.
"Impervious surface" means any nonvertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads or parking areas and excluding landscaping and surface water retention/detention facilities. (Ord. 2131, 1997).

19.06.270 Improvement.
"Improvement" means any structure or construction including, but not limited to, buildings, roads, storm drainage systems, sanitary sewage facilities, water mains, pedestrian and landscaping improvements. (Ord. 2131, 1997).

19.06.271 In-kind mitigation.
"In-kind mitigation" means measures taken to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in-category." (Ord. 2571 § 3, 2005).

19.06.273 Interim recycling facility.
"Interim recycling facility" means a site or establishment engaged in collection or treatment of

recyclable materials, which is not the final disposal site, and including:

(1) Drop boxes;

(2) Source-separated, organic waste processing facilities; and

(3) Collection, separation and shipment of glass, metal, paper or other recyclables to others who will re-use them or use them to manufacture new products. (Ord. 2131, 1997).

19.06.275 Jail.

"Jail" means a facility operated by a governmental agency; designed, staffed and used for the incarceration of persons for the purposes of punishment, correction and rehabilitation following conviction of an offense. (Ord. 2131, 1997).

19.06.278 Kennel, commercial.

"Kennel, commercial" means any lot or unit of adjoining lots in the city on which a total of more than four dogs and/or cats, or a combination of the same, over three months of age are kept and/or maintained for board, propagation, training or treatment. Such kennel must be established on a minimum of five acres; provided, that the term "commercial kennel" shall not apply to legally established commercial enterprises which operate exclusively as veterinary hospitals or clinics, pet stores or grooming parlors. (Ord. 2131, 1997).

19.06.280 Kennel, hobby.

"Kennel, hobby" means any lot or unit of adjoining lots in the city on which a total of more than four dogs and/or cats, or a combination of the same, over three months of age are kept; provided, that such animals must be owned by the occupants of the property and must be kept primarily for the use and enjoyment of said occupants, including but not limited to, the raising of the animals for show purposes. (Ord. 2131, 1997).

19.06.283 Kennel, exhibitor/breeding.

"Kennel, exhibitor/breeding" means a place at or adjoining a private residence where three, but not more than 20 adult dogs, cats, or combination thereof, owned by persons residing on said property, are kept for the primary purpose of participating in dog shows or other organized competitions or exhibitions. (Ord. 2131, 1997).

19.06.285 Landfill.

"Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land. (Ord. 2131, 1997).

19.06.288 Landslide.

"Landslide" means episodic downslope movement of a mass of soil or rock and includes snow avalanches. (Ord. 2131, 1997).

19.06.290 Landslide hazard areas.

"Landslide hazard areas" means areas that, due to a combination of slope inclination and relative soil permeability, are susceptible to varying degrees of risk of landsliding. Landslide hazard areas are classified as Classes I-IV based on the degree of risk as follows:

(1) Low Hazard. Areas with slopes of less than 15 percent.

(2) Moderate Hazard. Areas with slopes of between 15 and 40 percent and that are underlain by soils that consist largely of sand, gravel, bedrock or glacial till.

(3) High Hazard. Areas with slopes between 15 percent and 40 percent that are underlain by soils consisting largely of silt and clay, and all areas sloping more steeply than 40 percent.

(4) Very High Hazard. Areas with slopes over 40 percent and areas of known mappable landslide deposits. (Ord. 2131, 1997).

19.06.293 Lot.

"Lot" means a physically separate and distinct parcel of property, which has been created pursuant to the city of Marysville interim subdivision code or otherwise legally established. (Ord. 2131, 1997).

19.06.295 Lot area.

"Lot" means the total horizontal area within the boundary lines of a lot, excluding any access easements or panhandles. For purposes of this definition, a "panhandle" means a narrow strip of land designed for access purposes which does not, itself, meet the full frontage or width requirements of a lot. (Ord. 2131, 1997).

19.06.298 Lot, corner.

"Lot, corner" means a lot at the junction of and fronting on two or more intersecting streets. (Ord. 2131, 1997).

19.06.300 Lot depth.

"Lot depth" means the average distance measured from the front lot line to the rear lot line. (Ord. 2131, 1997).

19.06.303 Lot, interior.

"Lot, interior" means a lot fronting on one street. (Ord. 2131, 1997).

19.06.305 Lot line.

"Lot line" means a line of record that divides a lot from another lot or from a public or private street or alley. (Ord. 2131, 1997).

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19.06.308 Lot line, rear.

"Lot line, rear" means the lot line opposite and most distance from the front lot line. In the case of triangular or other irregularly shaped lots, it means a line 20 feet in length within the lot, parallel to and at the maximum distance from the front lot line. (Ord. 2131, 1997).

19.06.310 Lot, through.

"Lot, through" means a lot fronting on two streets that do not intersect on the parcel's lot lines. (Ord. 2131, 1997).

19.06.313 Lot width.

"Lot width" means the dimension of the lot line at the street, or in an irregularly shaped lot the horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines. (Ord. 2131, 1997).

19.06.315 Marina.

"Marina" means an establishment providing docking, moorage space and related activities limited to the provisioning or minor repair of pleasure boats and yachts; and personal services including, but not limited to:

(1) Showers;
(2) Toilets; and
(3) Self-service laundries. (Ord. 2131, 1997).

19.06.316 Master plan.

"Master plan" is defined herein as a concept site plan, to scale, showing general land uses and zoning districts, proposed building pad concepts and orientation, public and private open space, sensitive areas, streets, pedestrian and vehicle connectivity to adjacent parcels, and other design features, required by applicable comprehensive plan and development regulations applying to the parcels. (Ord. 2512 § 1, 2004).

19.06.318 Material error.

"Material error" means substantive information upon which a permit decision is based that is submitted in error or is omitted at the time of permit application. (Ord. 2131, 1997).

19.06.320 Mobile/manufactured home.

"Mobile/manufactured home" means a factory-constructed residential unit on one or more chassis for towing to the point of use and designed to be used with a permanent foundation as a single-family dwelling unit on a year-round basis. A commercial coach, recreational vehicle, and motor home shall not be considered a mobile/manufactured home. (Ord. 2131, 1997).

19.06.323 Mobile/manufactured home lot.

"Mobile/manufactured home lot" means a plot of ground within a mobile/manufactured home park designated to accommodate one mobile/manufactured home. (Ord. 2131, 1997).

19.06.325 Mobile/manufactured home park.

"Mobile/manufactured home park" means a tract of land under single ownership or control, including ownership by a condominium association, upon which two or more mobile/manufactured homes occupied as dwellings may be located. (Ord. 2131, 1997).

19.06.328 Motel.

"Motel" means a building or group of buildings containing six or more rooms where lodging with or without meals is provided for compensation. Cooking facilities may be installed provided no more than 10 percent of the motel units contain complete cooking facilities, and cooking facilities in the remaining units are limited to a "countertop range" with no oven. Motels shall be designed to accommodate the automobile tourist or transient; furnishings and daily maid service shall be provided, and parking facilities must be provided convenient to each guest room. (Ord. 2419 § 1, 2002; Ord. 2131, 1997).

19.06.330 Motor vehicle and boat dealer.

"Motor vehicle and boat dealer" means an establishment engaged in the retail sale of new and/or used automobiles, motor homes, motorcycles, trailers, and boats. (Ord. 2131, 1997).

19.06.333 Native fish.

"Native fish" means fish existing on a site or fish species that are indigenous to the area in question. (Ord. 2131, 1997).

19.06.335 Native vegetation.

"Native vegetation" means vegetation existing on a site or plant species that are indigenous to the area in question. (Ord. 2131, 1997).

19.06.338 Naturalized species.

"Naturalized species" means nonnative species of vegetation that are adaptable to the climatic conditions of the coastal region of the Pacific Northwest. (Ord. 2131, 1997).

19.06.340 Net density.

"Net density" means the number of dwelling units divided by the net project area. (Ord. 2526 § 5, 2004; Ord. 2131, 1997).

19.06.343 Net project area.

"Net project area" means the gross project area minus floodplains, utility easements 30 feet wide or greater, publicly owned community facility land and right-of-way, stormwater detention facility tracts or easements, private roads or access easements, panhandles, and 75 percent of all Category I and II wetlands, critical habitat, Class I and II streams, and high and very high geologic hazard and seismic hazard areas. (Ord. 2131, 1997).

19.06.345 Nonconformance.

"Nonconformance" means any use, improvement or structure which lawfully occupied a building or land on or before April 25, 1972, and was established in conformance with city of Marysville or county rules and regulations in effect at the time of establishment, that no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code due to changes in the code or its application to the subject property. (Ord. 2131, 1997).

19.06.348 Nonconforming lot.

"Nonconforming lot" means a legally established lot, tract or parcel, the area dimensions or location of which met the applicable zoning code requirements in effect at the time the lot, tract, or parcel was created, but which fails by reason of such adoption, revision, or amendment of the zoning code to conform to the present requirements of the zone in which it is located. (Ord. 2131, 1997).

19.06.350 Reserved.

(Ord. 2131, 1997).

19.06.353 Nonhydroelectric generation facility.

"Nonhydroelectric generation facility" means an establishment for the generation of electricity by nuclear reaction, burning fossil fuels, or other electricity generation methods. (Ord. 2131, 1997).

19.06.355 Off-street parking.

"Off-street parking" means parking facilities for motor vehicles on other than a public street or alley. (Ord. 2131, 1997).

19.06.358 Open space.

"Open space" means any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment. (Ord. 2131, 1997).

19.06.360 Open space, public.

"Open space, public" means an area dedicated in fee to the city, and operated and maintained by it. Public open space is designed primarily for the use of residents of a particular development, but cannot be reserved for their exclusive use due to the public ownership. (Ord. 2131, 1997).

19.06.363 Open-work fence.

"Open-work fence" means a fence in which the solid portions are evenly distributed and constitute no more than 50 percent of the total surface area. (Ord. 2131, 1997).

19.06.364 Opiate substitution treatment facility.

"Opiate substitution treatment facility" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291, as it now reads or is hereafter amended, for treatment or detoxification of opiate substitution. The agency is:

(1) Certified as an opioid treatment program by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration;

(2) Licensed by the Federal Drug Enforcement Administration;

(3) Registered by the state Board of Pharmacy;

(4) Accredited by an opioid treatment program accreditation body approved by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration; and

(5) Certified as an opiate substitution treatment program by the Washington State Department of Social and Health Services. (Ord. 2488 § 3, 2003).

19.06.365 Ordinary high water mark.

"Ordinary high water mark" means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition existed on June 1, 1971, or as it may naturally change thereafter; provided, that in any area where

the ordinary high water mark cannot be found pursuant to this definition, it shall be the line of mean high water. (Ord. 2131, 1997).

19.06.368 Outdoor performance center.

"Outdoor performance center" means an establishment for the performing arts with open-air seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions. (Ord. 2131, 1997).

19.06.369 Out-of-kind mitigation.

"Out-of-kind mitigation" means measures taken to replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded. It does not refer to replacement "out of category." (Ord. 2571 § 3, 2005).

19.06.370 Panhandle lot.

"Panhandle lot" means a lot where the front and rear lot lines conform to zoning code requirements for lot dimensions and lot sizes except for the panhandle. The panhandle is a narrow strip of land which does not, itself, meet the full frontage or width requirements of a lot and will be utilized principally for access purposes from an improved public right-of-way. (Ord. 2131, 1997).

19.06.373 Parcel.

See definition for "Lot." (Ord. 2131, 1997).

19.06.375 Park.

"Park" means a site designed or developed for recreational use by the public including, but not limited to:

(1) Indoor facilities, such as:
  (a) Gymnasiums;
  (b) Swimming pools; or
  (c) Activity centers; and

(2) Outdoor facilities, such as:
  (a) Playfields;
  (b) Fishing areas; or
  (c) Picnic and related outdoor activity areas; and

(3) Areas and trails for:
  (a) Hikers;
  (b) Equestrians;
  (c) Bicyclists; or
  (d) Off-road recreational vehicle users. (Ord. 2131, 1997).

19.06.378 Party of record (POR).

"Party of record (POR)" means a person who has submitted written comments, testified, asked to be notified or is the sponsor of a petition entered as part of the official city record on a specific development proposal. (Ord. 2131, 1997).

19.06.379 People with functional disabilities.

"People with functional disabilities" means:

(1) A person who because of a recognized chronic physical or mental condition or disease is functionally disabled to the extent of:

(a) Needing care, supervision or monitoring to perform activities of daily living or instrumental activities of daily living, or

(b) Needing support to ameliorate or compensate for the effects of a functional disability so as to lead as independent a life as possible, or

(c) Having a physical or mental impairment which substantially limits one or more of such person's major life activities, or

(d) Having a record of having such an impairment; or

(2) Being regarded as having such an impairment, but such term does not include current, illegal use of or active addiction to a controlled substance. (Ord. 2151 § 1, 1997).

19.06.380 Permitted use.

"Permitted use" means any use authorized or permitted alone or in conjunction with another use in a specified district and subject to the limitations of the regulations of such use district. (Ord. 2131, 1997).

19.06.383 Planning director.

"Planning director" means the manager of the city of Marysville's planning and building department or his or her designee. (Ord. 2131, 1997).

19.06.384 Primary association area.

"Primary association area" means the area is used on a regular basis, is in close association with, or is necessary for the proper functioning of the habitat of a critical species. "Regular basis" means that the habitat area is normally, or usually known to, contain a critical species, or based on known habitat requirements of the species the area is likely to contain the critical species. Regular basis is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types. (Ord. 2571 § 3, 2005).

19.06.385 Priority species or priority wildlife species.

"Priority species or priority wildlife species" means wildlife species of concern due to their pop-

ulation status and sensitivity to habitat alteration as identified by the Washington Department of Wildlife. (Ord. 2131, 1997).

19.06.388 Primary use.

"Primary use" means the principal or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory. (Ord. 2131, 1997).

19.06.390 Private stormwater management facility.

"Private stormwater management facility" means a surface water control structure installed by a project proponent to retain, detain or otherwise limit runoff and improve water quality from an individual or group of developed sites specifically served by such structure and is privately owned. This definition does not include biofiltration swales. (Ord. 2298 § 1, 1999; Ord. 2131, 1997).

19.06.393 Professional office.

"Professional office" means an office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodities; including the following:

(1) Insurance agents, brokers and service;

(2) Real estate agents and planning directors;

(3) Income tax return preparation services;

(4) Legal services;

(5) Engineering, architectural and surveying services;

(6) Accounting, auditing and bookkeeping services; and

(7) Management and public relations services. (Ord. 2131, 1997).

19.06.395 Public agency.

"Public agency" means any agency, political subdivision or unit of local government of this state including, but not limited to, municipal corporations, special purpose districts and local service districts, any agency of the state of Washington, the United States or any state thereof or any Indian tribe recognized as such by the federal government. (Ord. 2131, 1997).

19.06.398 Public agency office.

"Public agency office" means an office for the administration of any governmental activity or program, with no outdoor storage and including, but not limited to the following uses:

(1) Executive, legislative, and general government;

(2) Public finance, taxation, and monetary policy;

(3) Administration of human resource programs;

(4) Administration of environmental quality and housing programs;

(5) Administration of economic programs;

(6) International affairs;

(7) Legal counsel and prosecution; and

(8) Public order and safety. (Ord. 2131, 1997).

19.06.400 Public agency training facility.

"Public agency training facility" means an establishment or school for training state and local law enforcement, fire safety, national guard or transit personnel and facilities including but not limited to:

(1) Dining and overnight accommodations;

(2) Classrooms;

(3) Shooting ranges;

(4) Auto test tracks; and

(5) Fire suppression simulations. (Ord. 2131, 1997).

19.06.403 Public agency yard.

"Public agency yard" means a facility for open or enclosed storage, repair, and maintenance of vehicles, equipment, or related materials, excluding document storage. (Ord. 2131, 1997).

19.06.405 Public improvements.

"Public improvements" include but are not limited to streets, roads, storm drainage systems, sanitary sewage facilities, water mains, pedestrian and landscaping improvements which comply with adopted city standards and are dedicated to the city for public use. (Ord. 2131, 1997).

19.06.407 Public stormwater management facility.

"Public stormwater management facility" means a surface water control structure installed by a project proponent to retain, detain or otherwise limit runoff and improve water quality from an individual or group of developed sites specifically served by such structure and dedicated to the city. This definition does not include biofiltration swales. (Ord. 2298 § 2, 1999).

19.06.408 Qualified fish and wildlife consultant.

Repealed by Ord. 2571. (Ord. 2131, 1997).

19.06.410 Qualified scientific professional.

"Qualified scientific professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

(1) A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.

(2) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed by the state of Washington. (Ord. 2571 § 3, 2005; Ord. 2131, 1997).

19.06.413 Qualified wetlands consultant.

Repealed by Ord. 2571. (Ord. 2131, 1997).

19.06.415 Recreational vehicle (RV).

"Recreational vehicle (RV)" means a vehicle or portable structure built on a chassis and designed to be used for temporary occupancy or travel, recreational or vacation use. Said vehicles contain plumbing, heating and electrical systems which are operated without connection to outside utilities. Recreational vehicles shall include, but are not limited to, campers, motor homes and travel trailers; tents are excluded. (Ord. 2131, 1997).

19.06.418 Recreational vehicle site.

"Recreational vehicle site" means a plot of ground within a recreational vehicle park intended for accommodation of a recreational vehicle on a temporary basis. (Ord. 2131, 1997).

19.06.420 Recreational vehicle park.

"Recreational vehicle park" means a tract of land under single ownership or control or upon which two or more recreational vehicle sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation or vacation purposes. (Ord. 2131, 1997).

19.06.423 Reserved.

(Ord. 2131, 1997).

19.06.425 Regional stormwater management facility.

"Regional stormwater management facility" means a surface water control structure installed in or adjacent to a stream or wetland of a basin or subbasin by the city's public works department or a project proponent. (Ord. 2131, 1997).

19.06.426 Residential care facility.

"Residential care facility" means a facility, licensed by the state, that cares for at least five but not more than 15 people with functional disabilities, that has not been licensed as an adult family home pursuant to RCW 70.128.175. (Ord. 2151 § 1, 1997).

19.06.428 Riding academy.

"Riding academy" means any establishment where horses are kept for riding, driving or stabling for compensation or as an accessory use in the operation of a club, association, ranch or similar establishment. (Ord. 2131, 1997).

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19.06.429 Risk potential activity or facility.

"Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. "Risk potential activity" and "risk potential facility" includes:

(1) Public and private schools and their grounds;

(2) School bus stops;

(3) Licensed child day care and licensed preschool facilities;

(4) Public parks;

(5) Publicly dedicated trails;

(6) Sports fields;

(7) Playgrounds;

(8) Recreational and community centers;

(9) Places of worship such as churches, synagogues, temples, mosques;

(10) Public libraries;

(11) Any other risk potential activity or facility identified in siting criteria by the Department of Social and Health Services with respect to siting a secure community transition facility. (Ord. 2453 § 1, 2002).

19.06.430 School bus base.

"School bus base" means an establishment for the storage, dispatch, repair and maintenance of coaches and other vehicles of a school transit system. (Ord. 2131, 1997).

19.06.433 School, commercial.

"School, commercial" means a building where instruction is given to pupils in arts, crafts or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation. (Ord. 2131, 1997).

19.06.435 School district support facilities.

"School district support facilities" means uses (excluding schools and bus bases) that are required for the operation of a school district. This term includes school district administrative offices, centralized kitchens, and maintenance or storage facilities. (Ord. 2131, 1997).

19.06.438 School, elementary, junior or senior high, including public, private and parochial.

"School, elementary, junior or senior high, including public, private and parochial" means an institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Washington State Board of Education. (Ord. 2131, 1997).

19.06.440 Secondary habitat or secondary wildlife habitat.

"Secondary habitat or secondary wildlife habitat" means areas with one or more of the following attributes: comparatively high wildlife or fish density; high wildlife or fish species richness; significant wildlife or fish breeding habitat; significant wildlife or fish seasonal ranges; significant movement corridors; limited availability; high vulnerability. Secondary habitat may offer less diversity of animal and plant species than critical habitat, but is important for performing the essential functions of habitat. (Ord. 2131, 1997).

19.06.441 Secure community transition facility.

"Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under Chapter 71.09 RCW. A secure community transition facility has supervision and security, and either provides or ensures the provisions of sex offender treatment services. "Secure community transition facilities" include but are not limited to the facilities established pursuant to RCW 71.09.250 and any community-based facilities established under Chapter 71.09 RCW and operated by the Secretary of the State Department of Social and Health Services or under contract with the Secretary. (Ord. 2453 § 2, 2002).

19.06.443 Seismic hazard areas.

"Seismic hazard areas" means areas that, due to a combination of soil and groundwater conditions, are subject to severe risk of ground shaking, subsidence or liquefaction of soils during earthquakes. These areas are typically underlain by soft or loose saturated soils (such as alluvium), have a shallow ground water table and are typically located on the floors of river valleys. Seismic hazard areas are classified as follows:

(1) Low Hazard. Areas underlain by dense soils or bedrock.

(2) High Hazard. Areas underlain by soft or loose saturated soils. (Ord. 2131, 1997).

19.06.445 Self-service storage facility.

"Self-service storage facility" means an establishment containing separate storage spaces that are leased or rented as individual units. (Ord. 2131, 1997).

19.06.448 Setback (yard requirements).

"Setback (yard requirements)" means a line establishing the minimum distance a building may be located from any property line, improvements, rights-of-way, easement, drainage way, steep slope or other boundaries or potential hazards that is required to remain free of structures. (Ord. 2131, 1997).

19.06.450 Shooting range.

"Shooting range" means a facility designed to provide a confined space for safe target practice with firearms, archery equipment, or other weapons. (Ord. 2131, 1997).

19.06.451 Shopping center.

"Shopping center" means a group of retail and service establishments clustered on a contiguous site, designed and built as a unit or organized as a unified and coordinated shopping area consisting of at least 50,000 square feet of building area and/or one or more supermarkets, variety or department stores. (Ord. 2417 § 1, 2002).

19.06.453 Significant tree.

"Significant tree" means an existing healthy tree which, when measured four feet above grade, has a minimum diameter of:

(1) Eight inches for evergreen trees; or

(2) Twelve inches for deciduous trees. (Ord. 2131, 1997).

19.06.454 Site plan.

"Site plan" is defined herein as a plan, to scale, showing uses and structures proposed for a parcel or parcels of land as required by the regulations involved. It includes lot lines, streets, building sites, public and private open space, sensitive areas, buildings, parking lots, required landscaping, major landscape features (both natural and manmade) and, depending on requirements, the locations of proposed utilities. Such a site plan should accompany commercial and industrial building permits, conditional use permits, multiple-family or other uses that require review of parking, landscaping or other design features prior to permit issuance. (Ord. 2512 § 1, 2004).

19.06.455 Site plan review.*

"Site plan review" is defined herein as the process whereby local officials review the site plans or master plans to assure that they meet the stated purposes and standards of the zone, provide for necessary public facilities such as roads, and accomplish the goals of the city as stated in adopted comprehensive plans and development regulations. (Ord. 2512 § 1, 2004).

*Code reviser's note: Ordinance 2512 adds these provisions as Section 19.06.454a. The section has been editorially renumbered to prevent duplication of numbering.

19.06.456 Slope.*

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. (Ord. 2131, 1997. Formerly 19.06.455).

*Code reviser's note: MMC 19.06.456, formerly MMC 19.06.455, was editorially renumbered to preserve alphabetization and accommodate the amendments of Ordinance 2512.

19.06.458 Soil recycling/incineration facility.

"Soil recycling/incineration facility" means an establishment engaged in the collection, storage and treatment of contaminated soils to remove and reuse organic contaminants. (Ord. 2131, 1997).

19.06.460 Specified anatomical areas.

"Specified anatomical areas" means less than completely and/or opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely or opaquely covered. (Ord. 2131, 1997).

19.06.463 Specified sexual activities.

"Specified sexual activities" means acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; and human genitals in a state of sexual stimulation or arousal. (Ord. 2131, 1997).

19.06.465 Sports club.

"Sports club" means an establishment engaged in operating physical fitness facilities and sports and recreation clubs. (Ord. 2131, 1997).

19.06.468 Stable.

"Stable" means a structure or facility in which horses or other livestock are kept for:

(1) Boarding;

(2) Training;

(3) Riding lessons;

(4) Breeding;

(5) Rental; or

(6) Personal use. (Ord. 2131, 1997).

19.06.470 Streams.

"Streams" means water contained within a channel, either perennial or intermittent, and classified according to locally appropriate stream classification system based on WAC 222-16-030. Streams also include open natural watercourses modified by man. Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, storm water runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Streams are further characterized as follows:

(1) Type S Stream. Those streams, within their ordinary high water mark, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW.

(2) Type F Stream. Those stream segments within the ordinary high water mark that are not Type S streams, and which are demonstrated or provisionally presumed to be used by salmonid fish. Stream segments which have a width of two feet or greater at the ordinary high water mark and have a gradient of 16 percent or less for basins less than or equal to 50 acres in size, or have a gradient of 20 percent or less for basins greater than 50 acres in size are provisionally presumed to be used by salmonid fish. A provisional presumption of salmonid fish use may be refuted at the discretion of the community development director where any of the following conditions are met:

(a) It is demonstrated to the satisfaction of the city that the stream segment in question is upstream of a complete, permanent, natural fish passage barrier, above which no stream section exhibits perennial flow;

(b) It is demonstrated to the satisfaction of the city that the stream segment in question has confirmed, long-term, naturally-occurring water quality parameters incapable of supporting salmonid fish;

(c) Sufficient information about a geomorphic region is available to support a departure from the characteristics described above for the presumption of salmonid fish use, as determined in consultation with the Washington Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;

(d) The Washington Department of Fish and Wildlife has issued a hydraulic project approval pursuant to RCW 77.55.100 that includes a determination that the stream segment in question is not used by salmonid fish;

(e) No salmonid fish are discovered in the stream segment in question during a stream survey conducted according to the protocol provided in the Washington Forest Practices Board Manual, Section 13, Guidelines for Determining Fish Use for the Purpose of Typing Waters under WAC 222-16-031, provided no unnatural fish passage barriers have been present downstream of said stream segment over a period of at least two years.

(3) Type Np Stream. Those stream segments within the ordinary high water mark that are perennial and are not Type S or Type F streams. However, for the purpose of classification, Type Np streams include the intermittent dry portions of the channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see Washington Forest Practices Board Manual, Section 23), then said point shall be determined by a qualified professional selected or approved by the city.

(4) Type Ns Stream. Those stream segments within the ordinary high water mark that are not Type S, Type F, or Type Np streams. These include seasonal streams in which surface flow is not present for at least some portion of a year of normal rainfall that are not located downstream from any Type Np stream segment. (Ord. 2571 § 3, 2005; Ord. 2131, 1997).

19.06.473 Street.

"Street" means a public thoroughfare which affords the principal means of access to abutting properties. (Ord. 2131, 1997).

19.06.475 Structural alterations.

"Structural alterations" means any change in load or stress of the loaded or stressed members of a building or structure. (Ord. 2131, 1997).

19.06.478 Structure.

"Structure" means a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences less than six feet in height, retaining walls, rockeries and similar improvements of a minor character less than three feet in height. (Ord. 2131, 1997).

19.06.479 Subarea plan.

"Subarea plan" is defined herein as a general land use plan for a neighborhood or neighborhoods that is adopted pursuant to the Growth Management Act (RCW 36.70A.030) as part of the city's

Growth Management Act comprehensive plan. A subarea plan shows more detailed information for the neighborhoods and can include adoption of development policies, design standards or development regulations specific to the subarea. The subarea plan is processed in accordance with the procedures for comprehensive plan adoption and amendment. (Ord. 2512 § 1, 2004).

19.06.480 Reserved.
(Ord. 2131, 1997).

19.06.483 Substantial improvement.
"Substantial improvement" means any repair, reconstruction, structural modification, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(a) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places. (Ord. 2131, 1997).

19.06.485 Substrate.
"Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland. (Ord. 2131, 1997).

19.06.488 Swale.
"Swale" means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot. (Ord. 2131, 1997).

19.06.490 Taxi stands.
"Taxi stands" means establishments engaged in furnishing individual or small group transportation by motor vehicle. (Ord. 2131, 1997).

19.06.493 Temporary use permit.
"Temporary use permit" means a permit to allow a use of limited duration and/or frequency, or to allow multiple related events over a specified period. (Ord. 2131, 1997).

19.06.495 Tertiary habitat.
"Tertiary habitat" means habitat which, while supporting some wildlife or fish and performing other valuable functions, does not currently possess essential characteristics necessary to support a diverse wildlife community. Tertiary habitat also includes habitat which has been created purposefully by human actions to serve other or multiple purposes, such as open space areas, and landscape amenities. (Ord. 2131, 1997).

19.06.496 Threat to the community.
"Threat to the community" means a tendency which constitutes a direct threat to the health or safety of other individuals or a tendency which would result in substantial physical damage to the property of others. This term shall be interpreted in accordance with the provisions of and judicial interpretations of the Federal Fair Housing Act amendments, 43 USC Section 3604(f)(9), as the same exists or is hereafter amended. (Ord. 2452 § 1, 2002).

19.06.498 Top of the bank.
"Top of the bank" means that point in the natural contour where there is a distinct, sharp break in slope for a minimum of 50 running feet or greater which separates inclines at less than 25 percent from slopes equal to or greater than 25 percent. Where no distinct break exists, the top of the top of the bank shall be the uppermost limit of the area where the ground surface drops six feet and three inches or more vertically within a horizontal distance of 25 feet. (Ord. 2571 § 3, 2005; Ord. 2131, 1997).

19.06.499 Townhouse.
"Townhouse" means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. (Ord. 2575 § 1, 2005).

19.06.500 Tract.
See definition for "Lot." (Ord. 2131, 1997).

19.06.503 Transfer station.

"Transfer station" means a staffed collection and transportation facility used by private individuals and route collection vehicles to deposit solid waste collected off-site into larger transfer vehicles for transport to permanent disposal sites; and may also include recycling facilities involving collection or processing for shipment. (Ord. 2131, 1997).

19.06.505 Transit bus base.

"Transit bus base" means an establishment for the storage, dispatch, repair and maintenance of coaches, light rail trains, and other vehicles of a public transit system. (Ord. 2131, 1997).

19.06.506 Transit park and pool lot.

"Transit park and pool lot" means a parking area comprised of 50 or fewer parking spaces located in an existing parking lot serving an existing land use, and usage of the lot for transit is limited to the weekday hours between 5:00 a.m. and 8:00 p.m. daily. (Ord. 2153 § 1, 1997).

19.06.508 Transit park and ride lot.

"Transit park and ride lot" means vehicle parking specifically for the purpose of access to a public transit system. (Ord. 2131, 1997).

19.06.510 Transitional housing facilities.

"Transitional housing facilities" means housing units owned by public housing authorities, nonprofit organizations or other public interest groups that provide housing to persons on a temporary basis for a duration not to exceed 24 months in conjunction with job training, self sufficiency training, and human services counseling; the purpose of which is to help persons make the transition from homelessness to placement in permanent housing. (Ord. 2131, 1997).

19.06.513 Use.

"Use" means an activity or function carried out on an area of land, or in a building or structure located thereon. Any use comprising the sole or main use on the site is considered the primary use of the site. Any use subordinate or incidental to the primary use on a site is considered an accessory use. (Ord. 2131, 1997).

19.06.515 Utility facility.

"Utility facility" means a facility for the distribution or transmission of services to an area; requiring location in the area to be served; including, but not limited to:

(1) Telephone exchanges;

(2) Water pumping or treatment stations;

(3) Electrical switching substations;

(4) Water storage reservoirs or tanks;

(5) Municipal groundwater well-fields;

(6) Regional stormwater management facilities;

(7) Natural gas gate stations and limiting stations;

(8) Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users; and

(9) Sewer lift stations. (Ord. 2131, 1997).

19.06.518 Variance.

"Variance" is the means by which an adjustment is made in the application of the specific regulations of this title to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same zone or vicinity and which adjustment remedies disparity in privileges. A variance is a form of special exception. (Ord. 2131, 1997).

19.06.520 Veterinary clinic.

"Veterinary clinic" means a building or premises for the medical or surgical treatment of animals or pets, including dog, cat and veterinary hospitals, including the boarding of hospitalized animals. (Ord. 2131, 1997).

19.06.523 Warehousing and wholesale trade.

"Warehousing and wholesale trade" means establishments involved in the storage and/or sale of bulk goods for resale or assembly, excluding establishments offering the sale of bulk goods to the general public which is classified as a retail use. (Ord. 2131, 1997).

19.06.525 Wastewater treatment facility.

"Wastewater treatment facility" means a plant for collection, decontamination and disposal of sewage, including residential, industrial and commercial liquid wastes, and including any physical improvement within the scope of the definition of "water pollution control facility" set forth in WAC 173-90-015(4) as amended. (Ord. 2131, 1997).

19.06.528 Wetland or wetlands.

"Wetland or wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically

adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands include those artificial wetlands intentionally created to mitigate conversion of wetlands. See the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January, 1987) for more information. (Ord. 2131, 1997).

19.06.530 Wetlands area maps.

"Wetlands area maps" means the wetlands areas maps prepared for Snohomish County Tomorrow, July, 1991, and associated reports. The maps are adopted by the city of Marysville and indicate the potential presence of wetlands. (Ord. 2131, 1997).

19.06.533 Wetland, artificially created.

"Wetland, artificially created" means wetlands created through purposeful human action from nonwetland sites, such as irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. (Ord. 2131, 1997).

19.06.535 Wetland buffer area.

"Wetland buffer area" means an unnaturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created wetland that is an integral part of a wetland ecosystem, and protects a wetland from adverse impacts to the integrity and value of a wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical, nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion. (Ord. 2131, 1997).

19.06.538 Wetland class.

The U.S. Fish and Wildlife Service wetland classification scheme uses a hierarchy of systems, subsystems, classes and subclasses to describe wetland categories (refer to USFWS, December 1979, Classification of Wetlands and Deep Water Habitats of the United States for a complete explanation of the wetland classification scheme). Eleven class names are used to describe wetland and deep water habitat types. These include forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, stream bed, and reef. (Ord. 2131, 1997).

19.06.540 Wetland creation.

"Wetland creation" means the producing or forming of a wetland through artificial means from an upland (dry) site. (Ord. 2131, 1997).

19.06.543 Wetland delineation.

"Wetland delineation" means a technical procedure performed by a wetland specialist to determine the area of a wetland, ascertaining the wetland's classification, function, and value, and to define the boundary between a wetland and adjacent uplands. Delineations shall be performed by a wetland specialist according to the Washington State Wetlands Identification and Delineation Manual (for Western Washington) as prepared by the Washington State Department of Ecology, adopted under RCW 36.70A.175 pursuant to RCW 90.58.380. (Ord. 2571 § 3, 2005; Ord. 2131, 1997).

19.06.545 Wetland determination.

"Wetland determination" means a report prepared by a qualified consultant that identifies, characterizes and analyzes potential impacts to wetlands consistent with applicable provisions of these regulations. A determination does not include a formal delineation. (Ord. 2131, 1997).

19.06.548 Wetland enhancement.

"Wetland enhancement" means the improvement of an existing viable wetland or buffer, such as by increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, or removing nonindigenous plant or animal species. (Ord. 2131, 1997).

19.06.550 Wetland, in-kind mitigation.

"Wetland, in-kind mitigation" means replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. (Ord. 2131, 1997).

19.06.553 Wetland, low impact use.

"Wetland, low impact use" means land uses which are typically associated with relatively low levels of human activity, disturbance or development and low wetland habitat impacts. Low intensity land uses may include, but are not limited to, passive recreation, open space, or agricultural land uses that do not create a significant potential for wetlands impacts. (Ord. 2131, 1997).

19.06.555 Wetland mitigation.

"Wetland mitigation" includes:

(1) Avoiding the impact altogether by not taking a certain action or parts of actions.

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

While monitoring without additional actions is not considered mitigation for the purposes of these

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regulations, it may be part of a comprehensive mitigation program. (Ord. 2131, 1997).

19.06.558 Wetland, out-of-kind mitigation.

"Wetland, out-of-kind mitigation" means replacement of wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. (Ord. 2131, 1997).

19.06.560 Wetland, regulated activity.

"Wetland, regulated activity" means an activity occurring in, near, or potentially affecting a wetland or wetland buffer that are subject to the provisions of this title. Regulated activities generally include but are not limited to any filling, dredging, dumping or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting. (Ord. 2131, 1997).

19.06.563 Wetland restoration.

"Wetland restoration" means the re-establishment of a viable wetland from a previously filled or degraded wetland site. (Ord. 2131, 1997).

19.06.565 Wetland, structural diversity.

"Wetland, structural diversity" means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g., groundcover, shrub layer and tree canopy); the variety of plant species; and the spacing or pattern of vegetation. (Ord. 2131, 1997).

19.06.568 Wildlife habitat.

"Wildlife habitat" means areas that provide food, protective cover, nesting, breeding or movement for fish and wildlife and with which individual species have a primary association. "Wildlife habitat" also includes naturally occurring ponds larger than 1.5 acres and smaller than 20 acres in area that are a minimum of six feet deep to the extent that such pond(s) otherwise meet(s) the definition of wildlife habitat. (Ord. 2131, 1997).

19.06.570 Wildlife habitat enhancement.

"Wildlife habitat enhancement" means the improvement of existing habitat such as by increasing plant density or structural diversity, or by removing nonindigenous or noxious species. (Ord. 2131, 1997).

19.06.573 Wildlife report.

"Wildlife report" means a report, prepared by a qualified consultant, that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this title. (Ord. 2131, 1997).

19.06.575 Wildlife shelter.

"Wildlife shelter" means a facility for the temporary housing of sick or wounded or displaced wildlife. (Ord. 2131, 1997).

19.06.578 Yard.

"Yard" means an open space in front, rear or side of the same lot with a building or proposed building. (Ord. 2131, 1997).

19.06.580 Yard, front.

(1) For an interior lot, "front yard" means the open space extending from the principal street line to the building line and including the full width of the lot to its side lines. For purposes of this definition, the term "principal street" means any and all public streets which abut the lot, and any private roads or access easements which serve more than one lot.

(2) "Front yard" for a corner lot means the open space extending from the principal street line from which the lot gains primary access, to the building line and extending the full width of the lot to its side lines. The other lot line abutting the intersecting street shall become a flanking street side lot line having a reduced yard requirement of 10 feet; except when the flanking street is a designated arterial, in which case the flanking street setback shall be 15 feet and the rear yard setback shall be reduced to 10 feet. The reduced yard requirement on nonarterial flanking streets will apply only to corner lots at intersections, having either a stop sign or stoplight at the street intersection.

(3) On a panhandle lot, the "front yard" and setbacks shall be determined during the subdivision approval process, or, if not determined during subdivision review, shall be determined by the planning director. (Ord. 2417 § 2, 2002; Ord. 2131, 1997).

19.06.583 Yard, rear.

"Yard, rear" means an open space extending from the rear lot line to the rear setback line and including the full width of the lot to its side lines. (Ord. 2131, 1997).

19.06.585 Yard, side.
"Yard, side" means an open space extending from the front yard to the rear yard and from the side yard setback line to the side lot line. (Ord. 2131, 1997).

19.06.588 Yard waste processing facility.
"Yard waste processing facility" means a facility where yard and garden wastes, including wood and land clearing debris, are processed into new products, which include but are not limited to soil amendments and wood chips. This definition does not include individual household composting. (Ord. 2131, 1997).

19.06.590 Zoning ordinance.
"Zoning ordinance" means city of Marysville zoning ordinance, MMC Title 19. (Ord. 2131, 1997).

Sign Code Definitions

19.06.593 Abandoned sign.
"Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, or for which no legal owner can be found. (Ord. 2131, 1997).

19.06.595 Awning sign.
"Awning sign" means the use of an awning attached to a building for advertisement, identification, or promotional purposes; provided, that only that portion of the awning which bears graphics, symbols and/or written copy shall be construed as being a sign. (Ord. 2131, 1997).

19.06.598 Billboard.
"Billboard" means an outdoor advertising sign or poster panel which advertises products, businesses, and/or services not connected with the site on which the sign is located, and which sign is a substantial permanent structure with display services of a type which are customarily leased for commercial purposes. (Ord. 2131, 1997).

19.06.600 Reserved.
(Ord. 2131, 1997).

19.06.603 Comprehensive design plan.
"Comprehensive design plan" means the integration into one architectural design of the building, landscaping and signs. (Ord. 2131, 1997).

19.06.605 Clearance of a sign.
"Clearance of a sign" means the smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade. (Ord. 2131, 1997).

19.06.608 Directional sign.
"Directional sign" means a single-faced or double-faced sign not exceeding six square feet in surface area per side designed to guide or direct pedestrian or vehicular traffic to an area, place or convenience. Advertising on said signs shall be limited to incidental graphics such as trade names and trademarks. (Ord. 2131, 1997).

19.06.610 Electrical sign.
"Electrical sign" means a sign or sign structure in which electrical wiring, connections or fixtures are used. (Ord. 2131, 1997).

19.06.613 Facade.
"Facade" means the entire building front, or street wall face, including grade to the top of the parapet or eaves, and the entire width of the building elevation. (Ord. 2131, 1997).

19.06.615 Flashing sign.
"Flashing sign" means a sign or a portion thereof which changes light intensity or switches on and off in a constant pattern, or contains motion or the optical illusion of motion by use of electrical energy. (Ord. 2131, 1997).

19.06.618 Freestanding sign.
"Freestanding sign" means a permanent pole, ground or monument sign attached to the ground and supported by uprights or braces placed on or in the ground and not attached to any building. (Ord. 2131, 1997).

19.06.620 Ground sign.
"Ground sign" means a freestanding sign that is less than five feet in height. (Ord. 2131, 1997).

19.06.623 Incidental sign.
"Incidental sign" means a small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign or a sign indicating hours of business. Such signs shall not exceed two square feet in size. (Ord. 2131, 1997).

19.06.625 Indirect lighting.

"Indirect lighting" means lighting displayed or reflected on the surface or face of a sign which is not inside the sign and not a part of the sign proper. (Ord. 2131, 1997).

19.06.628 Marquee.

"Marquee" means a permanent roof-like structure or canopy of rigid material supported by and extending from the facade of a building. (Ord. 2131, 1997).

19.06.630 Monument sign.

"Monument sign" means a freestanding sign between five and 12 feet above grade which is attached to the ground by means of a wide base. (Ord. 2131, 1997).

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19.06.633 Multiple-occupancy complex.

"Multiple-occupancy complex" means a group of structures each housing at least one retail business, office or commercial venture, or a single structure or mall containing more than one separate business entity with shared common spaces, access points and/or parking facilities. For purposes of this chapter, a multiple-occupancy structure with a single entrance shall be required to comply with regulations for single-occupancy buildings. (Ord. 2131, 1997).

19.06.635 Off-premises sign.

"Off-premises sign" means an outdoor advertising, informational, directional or identification sign which relates to products, businesses, services or premises not located on or otherwise directly associated with the site on which the sign is erected. (Ord. 2131, 1997).

19.06.638 Pole sign.

"Pole sign" means any freestanding sign more than five feet in height that does not meet the definition of monument, ground or portable sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground. (Ord. 2131, 1997).

19.06.640 Political sign.

"Political sign" means any sign intended to promote an individual or an issue on an election ballot to be voted upon by the Marysville general electorate. (Ord. 2131, 1997).

19.06.643 Portable sign.

"Portable sign" means any sign which is designed to be periodically transported on or in a vehicle, on its own wheels, or by hand and which is not designed to be permanently affixed to the ground or to a structure. Such signs shall include, but not be limited to, "A-Frame" or "sandwich board" signs. The removal of the wheels from such a sign, or the attachment of a sign temporarily or permanently to the ground or to a structure, does not by itself change the inherent portability which was a part of the original design of the sign, and does not exempt it from this definition. (Ord. 2131, 1997).

19.06.645 Projecting sign.

"Projecting sign" means a sign, other than a flat wall sign, which is attached to and projects more than 12 inches from a building wall or other structure not specifically designed to support the sign. (Ord. 2131, 1997).

19.06.648 Readerboard.

"Readerboard" means a sign or a part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will. (Ord. 2131, 1997).

19.06.650 Real estate sign.

"Real estate sign" means a sign erected by the owner, or his agent, advertising the real estate upon which the sign is located for rent, lease, or sale, or directing interested parties to said property. (Ord. 2131, 1997).

19.06.653 Roof sign.

"Roof sign" means any sign erected over or on the roof of a building. (Ord. 2131, 1997).

19.06.655 Sign.

"Sign" means any device, structure, fixture, placard, painted surface, awning, banner or balloon using graphics, lights, symbols, and/or written copy designed specifically for the purpose of advertising, identifying or promoting the interest of any person, institution, business, event, product, goods or services; provided, that the same is visible from any street, way, sidewalk or parking area open to the public. (Ord. 2131, 1997).

19.06.658 Sign area.

"Sign area" means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising or identifying message; provided, that individual letters using a wall as the background, without added decoration or change in wall color, shall have a sign area calculated by measuring the perimeter enclosing each letter and totaling the square footage thereof. For double-faced signs, total sign area shall be calculated by measuring only one face. (Ord. 2131, 1997).

19.06.660 Sign height.

"Sign height" means the vertical distance from the average elevation of the lot to the highest point of a sign or any vertical projection thereof, including its supporting columns. (Ord. 2131, 1997).

19.06.663 Temporary or special event sign.

"Temporary or special event sign" means a nonpermanent sign intended for use for a short period of time, including banners, pennants or advertising

displays constructed of canvas, fabric, wood, plastic, cardboard or wallboard, with or without frame. Signs in this category include signs painted on exterior window surfaces which are readily removed by washing, and signs referred to in MMC 19.20.190. (Ord. 2131, 1997).

19.06.665 Wall sign.

"Wall sign" means a sign attached, painted onto or erected parallel to and extended not more than one foot from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of said wall or facade. (Ord. 2131, 1997).

Wireless Communication Facility Definitions

19.06.701 Wireless communications.

"Wireless communicatoins" means any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. (Ord. 2145 § 2, 1997).

19.06.702 Wireless communication antenna array.

"Wireless communication antenna array" means one or more whips, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antenna (whip), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure defined below. (Ord. 2145 § 2, 1997).

19.06.703 Wireless communication facility (WCF).

"Wireless communication facility (WCF)" means any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, transmission cables, and equipment facility, and a support structure to achieve the necessary elevation. (Ord. 2145 § 2, 1997).

19.06.704 WCF, attached.

"Attached WCF" means an antenna array that is attached to an existing building or structure (attachment structure), which structures shall include but not be limited to utility poles, signs, water towers, with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure, transmission cables, and an equipment facility which may be located either inside or outside of the attachment structure. (Ord. 2145 § 2, 1997).

19.06.705 WCF co-location.

"WCF co-location" means use of a common WCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity. (Ord. 2145 § 2, 1997).

19.06.706 WCF equipment facility.

"WCF equipment facility" means any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals and other similar structures. (Ord. 2145 § 2, 1997).

19.06.707 WCF, microcell.

"Microcell WCF" means a wireless communications facility consisting of an antenna that is either: (1) four feet in height and with an area of not more than 580 square inches; or (2) if a tubular antenna, no more than four inches in diameter and no more than six feet in length. (Ord. 2145 § 2, 1997).

19.06.708 WCF height.

"WCF height" means the distance measured from ground level to the highest point on the WCF support structure, including the antenna array. (Ord. 2145 § 2, 1997).

19.06.709 WCF, temporary.

"Temporary WCF" means a WCF which is to be placed in use for less than 90 days, is not deployed in a permanent manner, and does not have a permanent foundation. (Ord. 2145 § 2, 1997).

19.06.710 WCF support structure.

"WCF support structure" means a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device (attachment device) which is used to attach an attached WCF to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to support structures. (Ord. 2145 § 2, 1997).

Chapter 19.08

PERMITTED USES

Sections:

19.08.010 Establishment of uses.
19.08.020 Interpretation of land use tables.
19.08.030 Residential land uses.
19.08.040 Recreation/cultural land uses.
19.08.050 General services land uses.
19.08.060 Government/business service land uses.
19.08.070 Retail/wholesale land uses.
19.08.080 Manufacturing land uses.
19.08.090 Resource land uses.
19.08.100 Regional land uses.

19.08.010 Establishment of uses.

The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. The use is considered permanently established when that use will be or has been in continuous operation for a period exceeding 60 days. A use which will operate for less than 60 days is considered a temporary use, and subject to the requirements of Chapter 19.44 MMC. All applicable requirements of this code, or other applicable state or federal requirements, shall govern a use located in the city of Marysville. (Ord. 2131, 1997).

19.08.020 Interpretation of land use tables.

(1) The land use tables in this chapter determine whether a specific use is allowed in a zone district. The zone district is located on the vertical column and the specific use is located on the horizontal row of these tables.

(2) If no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that district, except for certain temporary uses.

(3) If the letter "P" appears in the box at the intersection of the column and the row, the use is allowed in that district subject to the review procedures specified in Chapter 19.52 MMC and the general requirements of the code.

(4) If the letter "C" appears in the box at the intersection of the column and the row, the use is allowed subject to the conditional use review procedures specified in Chapter 19.52 MMC and the general requirements of the code.

(5) If a number appears in the box at the intersection of the column and the row, the use may be allowed subject to the appropriate review process indicated above, the general requirements of the code and the specific conditions indicated in the development condition with the corresponding number immediately following the land use table.

(6) If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed in that zone subject to different sets of limitation or conditions depending on the review process indicated by the letter, the general requirements of the code and the specific conditions indicated in the development condition with the corresponding number immediately following the table.

(7) All applicable requirements shall govern a use whether or not they are cross-referenced in a section. (Ord. 2131, 1997).

19.08.030 Residential land uses.

(1) Table.

Specific Land Use											
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**
Dwelling Units, Types:											
Single detached	P	P	P								
Duplex	P	P11C	P								
Townhouse		P3	P				P17	P			
Multiple-family			P	C9	P9, C15	P9, C15	P17	P			
Mobile home	P	C3									
Mobile home park	C		C14, P			P					
Senior citizen assisted		C2	C2	P				C			
Factory-built	P10	P10	P10								
Guesthouse	P6										
Caretaker's quarters (8)					P	P	P		P	P	P
Group Residences:											
Adult family home	P	P	P	P	P	P	P	P			
Convalescent, nursing, retirement		C2	C2	C	P	P		C			
Residential care facility	P	P	P	P	P	P	P	P			
Accessory Uses:											
Residential accessory uses (1) (12) (16)	P	P	P								
Home occupation (5)	P	P									
Temporary Lodging:											
Hotel/Motel			P	P	P	P	P	P	P	P	
Bed and breakfast guesthouse (4)	C	C13	P								
Bed and breakfast inn (4)	C		P	P	P	P					

(2) Development Conditions.

1. Accessory dwelling units must comply with development standards in Chapter 19.34 MMC, Accessory Dwelling Units.
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 PRD development 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 19.36 MMC, Bed and Breakfasts.
5. Home occupations are subject to the requirements and standards contained in Chapter 19.32 MMC, Home Occupations.
6. a. Guesthouses are not to be used as rental units or as a bed and breakfast;
   b. Only one guesthouse may be permitted per lot; and
   c. Each guesthouse shall be sited so that future division of the property will allow each structure to meet all bulk and dimensional requirements for the zone in which it is located.
7. a. There shall be accommodations for no more than two persons.
   b. The accommodations shall be located within the primary residence.
8. Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business.
9. All units must be located above a street level commercial use.
10. 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

Uniform 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.

11. Permitted outright in the R-8 and R-6.5 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.

12. a. A garage sale shall comply with the following standards:

i. 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.

ii. 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.

b. 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.

13. Limited to the R-6.5 and R-8 zones only.

14. A conditional use permit is required in the low density multiple-family zone.

15. 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.

16. a. Accessory buildings or uses may not be established until the principal building or buildings are constructed on the property.

b. A detached garage, carport or other permitted accessory building may be located in the rear yard, provided:

i. Not more than 50 percent of the required rear setback area is covered; and

ii. Accessory building(s) located within rear setback areas shall have a minimum interior side setback of five feet, or 10 feet on the flanking street of a corner lot, and a minimum rear setback of five feet; and

iii. Vehicle access points from garages, carports, fenced parking areas or other accessory building(s), the entrance of which faces the rear lot line, shall not be located within 10 feet from the rear lot line, except where the accessory building(s) entrance faces an alley with a right-of-way width of 10 feet, in which case the accessory building(s) shall not be located within 20 feet from the rear lot line; and

iv. Detached accessory buildings exceeding one story shall provide the minimum required yard setbacks for principal buildings in the zone; and

v. An accessory building, which is located in the rear setback area, may be attached to the principal building; provided, that no portion of the principal building is located within the required yard setbacks for principal buildings in the zone.

c. A detached garage, carport or other permitted accessory building may be located in the front or side yard only if the applicant demonstrates, to the satisfaction of the community development director, that the following conditions can be met:

i. Accessory buildings that are located in the front or side yard shall not compromise the integrity of the residential neighborhood in which it is proposed to be located, and shall be subject to, but not limited to, the following development standards:

A. The architectural character of the principal building shall be preserved; and

B. The accessory building shall have a roof pitch similar to the primary building and have siding and roofing materials similar to or compatible with those used on the primary building. No metal siding or roofing shall be permitted unless it matches the siding and roofing of the dwelling. Plans for the proposed accessory building(s) indicating siding and roofing materials shall be submitted with the application.

ii. Detached accessory buildings located in the front or side yard shall provide the minimum required yard setback for principal buildings in the zone.

17. Permitted in southwest sector of downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.

(Ord. 2575 § 1, 2005; Ord. 2463A § 1, 2003; Ord. 2433 § 1, 2002; Ord. 2410 § 1, 2002; Ord. 2151 § 5, 1997; Ord. 2131, 1997).

19.08.040 Recreation/cultural land uses.

(1) Table.

Specific Land Use												
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**	**REC**
Park/Recreation:												
Park	P1	P1	P1	P1	P	P	P	P	P	P	P	P1
Marina											P	C
Dock and boathouse, private, noncommercial	P6										P	P6
Recreational vehicle park						C2				C2		C
Boat launch, commercial or public											P	
Boat launch, noncommercial or private	C7										P	P7
Community center		C	C	P	P	P	P	P	P	P	P	P
Amusement/Entertainment:												
Theater					P	P	P	P				
Theater, drive-in						C						
Amusement and recreation services					P8	P8	P8	P9	P	P	C	
Sports club			C	P	P	P	P	P	P	P	P	
Golf facility (3)	C	C	P		P	P			P	P	P	C
Shooting range (4)	C					P5			P5	P5		
Outdoor performance center	C					C				C		C
Riding academy	C								P	P		C
Cultural:												
Library, museum and art gallery	C	C	C	P	P	P	P	P	P	P	P	C
Church, synagogue, and temple	C	C	P	P	P	P	P	P	P	P	P	
Dancing, music and art center					P	P	P	P				C

(2) Development Conditions.

1. 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.

2. Recreational vehicle parks are subject to the requirements and conditions of Chapter 19.40 MMC.

3. 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.

4. 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.

5. Only in an enclosed building.

6. 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 preexisting over-water structures along the same shoreline and within 300 feet of the parcel on which proposed. Where no such preexisting 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.

7. 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.

8. Excluding racetrack operation.

9. 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. (Ord. 2526 § 6, 2004; Ord. 2298 § 3, 1999; Ord. 2266 § 3, 1999; Ord. 2242, 1999; Ord. 2131, 1997).

19.08.050 General services land uses.

(1) Table.

Specific Land Use											
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**
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	P12		P	P
Funeral home/crematory		C1	C1		P	P	P	P13	P	P	P
Cemetery, columbarium or mausoleum	P10 C2	P10 C2	P10 C2	P10	P10	P10 C2			P	P	P
Day care I	P3	P3	P3	P	P	P		P		P4	
Day care II			C	P	P	P	P	P	P4	P4	
Veterinary clinic	C			P	P	P	P	P	P	P	P
Automotive repair and service				P5	C, P15	P			P	P	P
Miscellaneous repair					P	P				P	P
Social services	C11				P	P	P	P			
Stable	C	C									
Kennel or cattery, hobby	P	C	C								
Kennel, commercial and exhibitor/breeding	C				P	P			C	P	P
Civic, social and fraternal association	C				P	P	P	C	P		P
Club (community, country, yacht, etc.)	C								P		P
Health Services:											
Medical/dental clinic			C	P	P	P	P	P			
Hospital	C				P	P	P	C			
Education Services:											
Elementary, middle/junior high, and senior high (including public, private and parochial)	C	C	C		C	C	C	C		P	C
Commercial school	C6	C6	C6	P	P		P	P14			
School district support facility	C9	C9	C9	C	P	P	P	P		P	P
Interim recycling facility	C7	P7	P7		P8	P8				P	
Vocational school					P	P	P	P14			

(2) Development Conditions.

1. Only as an accessory to a cemetery.
2. Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.
3. Only as an accessory to residential use and subject to the criteria set forth in MMC 19.32.030.
4. Permitted as an accessory use; see commercial/industrial accessory, MMC 19.08.060(1).
5. Only as an accessory to a gasoline service station; see retail and wholesale permitted use table.
6. 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.

7. Limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.

8. All processing and storage of material shall be within enclosed buildings and excluding yard waste processing.

9. Only when adjacent to an existing or proposed school.

10. Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.

11. Hours of operation shall be restricted to that compatible with the neighborhood and proposed usage of the facility.

12. Drive-through service windows in excess of one lane are prohibited in Planning Area 1.

13. Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.

14. All instruction must be within an enclosed structure.

15. Car washes shall be permitted as an accessory use to a gasoline service station. (Ord. 2410 § 2, 2002; Ord. 2298 §§ 4, 5, 1999; Ord. 2151 § 6, 1997; Ord. 2131, 1997).

19.08.060 Government/business service land uses.

(1) Table.

Specific Land Use											
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**
Government Services:											
Public agency office	C			P	P	P	P	P	P	P	P
Public utility yard						P				P	
Public safety facilities, including police and fire	C1	C1	C1	P1	P	P	P	P		P	
Utility facility	P	P	P	P	P	P		C	P	P	P
Private stormwater management facility	P7	P7	P7	P	P	P	P	P	P	P	P
Public stormwater management facility	P7	P7	P7	P	P	P	P	P7	P	P	P
Business Services:											
Contractors' office and storage yard						P2	P2	P2		P	P
Taxi stands					P	P					
Trucking and courier service					P3	P3				P	P
Warehousing and wholesale trade						P			P	P	P
Self-service storage (14)			C4			P			P	P	P
Freight and cargo service						P			P	P	P
Cold storage warehousing										P	P
General business service and office (9)				P	P	P	P	P2	P	P	P
Commercial vehicle storage									P	P	P
Professional office				P	P	P	P	P	P	P	
Miscellaneous equipment rental					P2, 15	C16		P2, 15		P	P
Automotive rental and leasing						P				P	
Automotive parking	P6	P6	P6	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
Model house sales office	P10	P10									
Commercial/industrial accessory uses				P17, 18	P17	P17	P17, 18	P17, 18	P	P	P
Adult facility											P8
Factory built commercial building (11)				P	P	P	P		P	P	P
Attached wireless communication facility (5, 5a)		C5b	C5b	C	C	C	C	C	C	P	P
Wireless communication facility with support structures (5, 5a, 19)		C5b	C5b	C	C	C	C	C	C	P	P

(2) Development Conditions.

1. 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.

2. No outdoor storage of materials or vehicles.

3. Limited to self-service household moving truck or trailer rental accessory to a gasoline service station.

4. 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.

5. All wireless communication facilities are subject to overall siting criteria and WCF standards identified in Chapter 19.43 MMC.

a. WCFs are permitted outright on all publicly owned properties meeting the special setback requirements of MMC 19.43.030(4).

b. Only WCFs are permitted as an accessory structure on a nonresidential land use in an R zone, and subject to special setback requirements of MMC 19.43.030(4).

6. 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.

7. Such facilities shall be located on the same lot that they are designed to serve, except in subdivisions they shall be set aside in a separate tract.

8. Subject to the conditions and requirements listed in MMC 19.46.070.

9. Billboards are only permitted within the GC, and BC zones along State Avenue NE, and must comply with all requirements and standards of the sign code.

10. a. The planning 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 sensitive 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.

11. 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 cer-

tifying that it meets all requirements of the Uniform 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 Uniform Building Code.

12. Reserved.

13. *Repealed by Ord. 2151.*

14. Any outdoor storage areas are subject to the screening requirements of the landscape code.

15. Except heavy equipment.

16. With outdoor storage and heavy equipment.

17. Incidental assembly shall be permitted; provided, it is limited to less than 20 percent of the square footage of the site excluding parking.

18. Light industrial uses may be permitted; provided, there is no outdoor storage of materials, products or vehicles.

19. Not permitted in Downtown Planning Area #1. (Ord. 2526 § 7, 2004; Ord. 2410 § 3, 2002; Ord. 2298 §§ 6, 7, 1999; Ord. 2269, 1999; Ord. 2151 §§ 7, 8, 1997; Ord. 2145 §§ 3, 4, 1997; Ord. 2131, 1997).

19.08.070 Retail/wholesale land uses.

(1) Table.

Specific Land Use											
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**
Building, hardware and garden materials				P10	P	P	P	P10		P	P
Forest products sales	P2	P3			P	P				P	
Department and variety stores				P	P	P	P	P		P	
Food stores				P	P	P	P	P8		P	
Agricultural crop sales	P3	P3			P	P		C		P	
Storage/retail sales, livestock feed	P									P	P
Motor vehicle and boat dealers					P	P				P	P
Motorcycle dealers					C	P	P12			P	P
Gasoline service stations				P	P	P	P			P	P
Eating and drinking places				P4	P	P	P	P9	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			
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						P6			P6	P6	P6
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						P5				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	P11	P7	P7	P7
Automobile wrecking yards										C	P

(2) Development Conditions.

1. Only hardware and garden materials stores shall be permitted.
2. a. Limited to products produced on-site;

b. Covered sales areas shall not exceed a total area of 500 square feet for the RU zone and 300 square feet in the R-4.5-8 zones; and

c. There shall be only one stand per lot.

3. Subject to approval of a small farms overlay zone.
4. Excluding drinking places such as taverns and bars and adult entertainment facilities.
5. Excluding vehicle and livestock auctions.
6. If the total storage capacity exceeds 6,000 gallons, a conditional use permit is required.
   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. However, interim uses that occupy less than 20 percent of the property on underdeveloped parcels may have more than one lane; provided, that upon further development of the property the interim use is either removed or brought into conformity with the mixed use standards.
   c. Taverns, bars, lounges, etc., are required to obtain a conditional use permit.
7. Subject to the standards outlined in Chapter 19.42 MMC.
8. Limited to 5,000 square feet or less.
9. 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.
10. Limited to hardware and garden supply stores.
11. Limited to convenience retail, such as video, and personal and household items.
12. Provided there is no outdoor storage and/or display of any materials, products or vehicles. (Ord. 2526 § 8, 2004; Ord. 2410 § 4, 2002; Ord. 2298 §§ 8, 9, 1999; Ord. 2151 § 9, 1997; Ord. 2131, 1997).

19.08.080 Manufacturing land uses.

(1) Tables.

Specific Land Use											
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**
Food and kindred products	P1				P2, 5	P2				P2	P
Winery/brewery	C				P6	P	P6	P6		P	P
Textile mill products										P	P
Apparel and other textile products						C				P	P
Wood products, except furniture	P3					P				P	P
Furniture and fixtures						P				P	P
Paper and allied products										P	P
Printing and publishing				P4	P4	P		P4	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							P7			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	

(2) Development Conditions.

1. Structures and areas used for processing shall maintain a minimum distance of 75 feet from property lines adjoining residential zones to agriculture products produced on-site.
2. Except slaughterhouses.
3. Limited to rough milling and planing with portable equipment of products grown on-site.
4. Limited to photocopying and printing services offered to the general public.
5. Limited to less than 10 employees.
6. In conjunction with an eating and drinking establishment.
7. Provided there is no outdoor storage and/or display of any materials, products or vehicles. (Ord. 2410 § 5, 2002; Ord. 2298 §§ 10, 11, 1999; Ord. 2131, 1997).

19.08.090 Resource land uses.

(1) Table.

Specific Land Use												
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**	**REC**
Agriculture:												
Growing and harvesting crops	P	P2							P	P	P	P
Raising livestock and small animals	P	P5							P	P	P	P
Greenhouse or nursery, wholesale and retail	P3					P			P	P	P	C
Farm product processing	C4									P	P	
Forestry:												
Growing and harvesting forest products	P	P2								P		
Forest research	P									P		
Wood waste recycling and storage										C	C	
Fish and wildlife management:												
Hatchery/fish preserve (1)	P	C							P	P	P	C
Aquaculture (1)	P	C								P	P	C
Wildlife shelters	P			C	C							P
Mineral:												
Processing of minerals										P	P	
Asphalt paving mixtures and block										P	P	

(2) Development Conditions.

1. May be further subject to the provisions of city of Marysville shoreline management program.
2. Only allowed in conjunction with the small farms overlay zone.
3. a. Incidental sale of soil, bark fertilizers, plant nutrients, rocks and similar plant husbandry materials is permitted; provided, however, the sale of small garden hand tools not exceeding $20.00 for any single item shall be allowed.

   b. There shall be no on-site signs advertising other than the principal use.
4. a. Where a lot of nonconforming size has been previously developed for residential use and the owner resides therein, farm product processing may be permitted by the hearing examiner when the following criteria are met:

   i. No more than one person outside of immediate family shall be employed full-time in the farm product processing at any one time; and

   ii. Nature of operation and any structures shall not adversely affect adjacent properties. Physical scale and use intensity must be compatible with surrounding neighborhood.

   b. Retail sales of products produced on the premises for off-site consumption may be allowed.
5. Provided that the property has received approval of a small farms overlay designation, or is larger than one acre in size. (Ord. 2266 § 4, 1999; Ord. 2131, 1997).

19.08.100 Regional land uses.

(1) Table.

Specific Land Use											
	RU	**R 4.5-8**	**R 12-28**	**NB**	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**
Jail					C	C			C	C	
Regional storm water management facility	C	C	C		C	C	C		C	C	C
Public agency animal control facility	C					C				P	P
Public agency training facility	C1				C1	C1		C1		C2	
Nonhydroelectric generation facility	C	C	C	C	C	C				C	C
Energy resource recovery facility	C									C	
Soil recycling/incineration facility	C									C	C
Solid waste recycling	C										C
Transfer station	C									C	C
Wastewater treatment facility									C	C	C
Transit bus base	C					C				P	
Transit park and pool lot	P	P	P	P	P	P	P	P	P	P	P
Transit park and ride lot	C	C	C	P	P	P	P	P	P	P	P
School bus base	C3	C3	C3	C	C	C				P	
Racetrack	C	C5	C5	C5	C5	C				P	
Fairground	C								P	P	P
Zoo/wildlife exhibit	C6				C	C					
Stadium/arena						C				C	P
College/university	C	C	C	C	P	P	P	P	P	P	P
Secure community transition facility											C7
Opiate substitution treatment program facilities					P8,9	P8,9	P8,9			P9	P9

(2) Development Conditions.

1. Except weapons armories and outdoor shooting ranges.
2. Except outdoor shooting ranges.
3. Only in conjunction with an existing or proposed school.
4. a. Limited to one satellite dish antenna.
   b. Limited to tower consolidations.
5. Except racing of motorized vehicles.
6. Limited to wildlife exhibit.
7. 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 (aka TP# 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.
8. Opiate substitution treatment program facilities permitted within commercial zones are subject to Chapter 19.55 MMC, Siting Process for Essential Public Facilities.

9. Opiate substitution treatment program facilities as defined in MMC 19.06.364 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. (Ord. 2526 § 9, 2004; Ord. 2488 §§ 1, 2, 2003; Ord. 2452 § 2, 2002; Ord. 2298 § 12, 1999; Ord. 2153 §§ 2, 3, 1997; Ord. 2145 § 14, 1997; Ord. 2131, 1997).

Chapter 19.12

DEVELOPMENT STANDARDS – DENSITY AND DIMENSIONS

Sections:

19.12.010 Purpose.
19.12.020 Interpretation of tables.
19.12.030 Residential zones.
19.12.040 Resource and commercial/industrial zones.
19.12.050 Measurement methods.
19.12.060 Calculations – Allowable dwelling units.
19.12.070 Calculations – Site area used for density calculations.
19.12.080 Lot area – Prohibited reduction.
19.12.090 Lot area – Minimum lot area for construction.
19.12.100 Setbacks – Specific building or use.
19.12.110 Setbacks – Modifications.
19.12.120 Setbacks – From regional utility corridors.
19.12.130 Setbacks – From private roads or access easements.
19.12.140 Setbacks – From alleys.
19.12.150 Setbacks – Adjoining half-street or designated arterial.
19.12.160 Setbacks – Projections allowed.
19.12.170 Height – Exceptions to limits.
19.12.180 Lot divided by zone boundary.
19.12.190 Sight distance requirements.
19.12.200 Nonresidential land uses in residential zones.
19.12.210 Building setbacks – Multiple-family dwellings and townhouse buildings.
19.12.220 Building setbacks – Dwellings above ground floor of commercial uses.
19.12.230 *Repealed.*

19.12.010 Purpose.

The purpose of this chapter is to establish requirements for development relative to residential density and basic dimensional standards, as well as specific rules for general application. The standards and rules are established to provide flexibility in project design, provide solar access, and maintain privacy between adjacent uses. (Ord. 2131, 1997).

19.12.020 Interpretation of tables.

(1) MMC 19.12.030 and 19.12.040 contain general density and dimension standards for the various zones and limitations specific to a particular zone(s). Additional rules and exceptions, and methodology are set forth in MMC 19.12.050 through 19.12.210.

(2) The density and dimension tables are arranged in a matrix format on two separate tables and are delineated into two general land use categories:

(a) Residential; and

(b) Commercial/industrial.

(3) Development standards are listed down the left side of both tables, and the zones are listed at the top. The matrix cells contain the minimum dimensional requirements of the zone. The parenthetical numbers in the matrix identify specific requirements applicable either to a specific use or zone. A blank box indicates that there are no specific requirements. If more than one standard appears in a cell, each standard will be subject to any applicable parenthetical footnote following the standard. (Ord. 2131, 1997).

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19.12.030 Residential zones.

(1) Densities and Dimensions.

	RU	R-4.5	R-6.5	R-8	R-12 (15)	R-18 (15)	R-28 (15)
Density: Dwelling unit/acre (6)	0.4 du/ac	4.5 du/ac	6.5 du/ac	8 du/ac	12 du/ac	18 du/ac	28 du/ac
Maximum density: Dwelling unit/acre (1)	–	–	–	–	18 du/ac	27 du/ac	36 du/ac
Minimum street setback (3) (18)	30 ft	20 ft (8)	20 ft (8)	20 ft (8)	20 ft	25ft	25 ft
Minimum side yard setback (3)	35 ft (9)	5 ft (10)	5 ft (10)	5 ft (10)	10 ft (10)	10 ft (10)	10 ft (10)
Minimum rear yard setback (3)	35 ft (9)	20 ft	20 ft	20 ft	25 ft	25 ft	25 ft
Base height	40 ft	30 ft	35 ft	35 ft	35 ft (4)	45 ft (4)	45 ft (4)
Maximum building coverage: Percentage (5)	4% (11) (12)	35%	35%	40%	40%	45%	50%
Maximum impervious surface: Percentage (5)	15% (13)	45%	45%	50%	70%	70%	75%
Minimum lot area	2.3 acres	5,000 sq. ft	5,000 sq. ft	4,000 sq. ft (14)	–	–	–
Minimum lot area for duplexes (2)	2.3 acres	12,500 sq. ft	7,200 sq. ft	7,200 sq. ft	–	–	–
Minimum lot width (3)	135 ft	60 ft	50 ft	40 ft	70 ft	70 ft	70 ft
Minimum lot frontage on cul-de-sac, sharp curve, or panhandle (16)	20 ft	20 ft	20 ft	20 ft	–	–	–
WCF height (17)	–	60 ft	60 ft	–	60 ft	60 ft	60 ft

(2) Development Conditions.

1. a. The maximum density for multiple-family zones may be achieved only through the application of residential density incentive provisions outlined in Chapter 19.26 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 only through the application of residential density incentive provisions outlined in Chapter 19.26 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 7,200 square feet in size, must include a "duplex disclosure," and 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 and R-8 zones).

3. These standards may be modified under the provisions for zero lot line and townhome developments.

4. 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 19.12.200.

6. a. The densities listed for the single-family zones 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 is 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. 20 feet along any property line abutting R-4.5 through R-8, and RU zones; or

b. The average setback of the R-4.5 through R-8 zoned 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 19.12.160 and accessory structures existing at the time the townhome or apartment development receives approval by the city.

11. On any lot over one acre in area, an additional five percent may be used for buildings related to agricultural or forestry practices.

12. The maximum building coverage shall be 10 percent where the lot is between 1.0 and 1.25 acres in area. The maximum shall be 15 percent where the lot is less than one acre in area.

13. The impervious surface area shall be:

a. Twenty percent when the lot is between 1.0 and 1.25 acres; and

b. Thirty-five percent when the lot is less than one acre in area.

14. Outside Planning Area 1, in the single-family high density zone, the small lot zone will be allowed through the PRD process with the minimum lot size being 5,000 square feet.

15. Single-family lots within the R-12-28 zones shall utilize the dimensional requirements of the R-8 zone, except the base density.

16. 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.

17. Heights may be increased to 160 feet on nonresidential land uses in R zones, including publicly owned facilities, if co-location is provided.

18. Subject to MMC 19.06.580(2). (Ord. 2413 §§ 1, 2, 3, 2002; Ord. 2298 §§ 13, 14, 1999; Ord. 2151 § 10, 1997; Ord. 2145 §§ 5, 6, 1997; Ord. 2131, 1997).

19.12.040 Resource and commercial/industrial zones.

(1) Densities and Dimensions.

Standards	NB	CB	GC	DC	MU (16)	BP	LI	GI	REC
Base density: Dwelling unit/acre	(8)	12	12	34	28 (1)	–	–	–	–
Maximum density: Dwelling unit/acre	–	None (17)	None (17)	None (17)	34 (2)	–	–	–	–
Minimum street setback (4)	20 ft.	None (10)	None (10)	None (10)	None (10) (11)	None (10)	None (10)	None (10)	20 ft.
Minimum interior setback	10 ft. side 20 ft. rear	25 ft. (6)	25 ft. (6)	25 ft. (6)	20 ft. (12) 10 ft. (13)		25 ft. (6) 50 ft. (7)	25 ft. (6) 50 ft. (7)	25 ft. (6)
Base height (9)	25 ft.	55 ft.	35 ft.	85 ft.	45 ft., 65 ft. (14)	45 ft.	65 ft.	65 ft.	35 ft.
Maximum impervious surface: Percentage	75%	85%	85%	85%	85%, 75% (15)	75%	85%	85%	35%
WCF height (18)	60 ft.	85 ft.	85 ft.	85 ft.	85 ft.	120 ft.	120 ft.	120 ft.	–

(2) Development Conditions.

1. These densities are allowed only through the application of mixed use development standards.

2. These densities may only be achieved in the downtown portion of Planning Area 1 through the application of residential density incentives, see Chapter 19.26 MMC.
3. (Reserved).
4. Gas station pump islands shall be placed no closer than 25 feet to street front lines. Pump island canopies shall be placed no closer than 15 feet to street front lines.
5. (Reserved).
6. A 25-foot setback only required on property lines adjoining residentially designated property, otherwise no specific interior setback requirement.
7. A 50-foot setback only required on property lines adjoining residentially designated property for industrial uses established by conditional use permits, otherwise no specific interior setback requirement.
8. Residential units are permitted if located above a ground level commercial use.
9. Height limits may be increased when portions of the structure building 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.
10. Subject to sight distance review at driveways and street intersections.
11. A 20-foot setback is required for multiple-family structures outside of the downtown portion of Planning Area 1.
12. A 20-foot setback is only required for commercial structures on property lines adjoining residentially designated property, otherwise no specific interior setback requirement.
13. A 10-foot setback is only required for multiple-family structures on property lines adjoining single-family residentially designated property, otherwise the minimum setback is five feet.
14. The 65-foot base height applies only to the downtown portion of Planning Area 1. The 45-foot base height applies to the southeast sector of the downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.
15. The 85 percent impervious surface percentage applies to commercial developments, and the 75 percent rate applies to multiple-family developments.
16. Reduced building setbacks and height requirements may be approved on a case-by-case basis to provide flexibility for innovative development plans; provided, that variance requests which are greater than 10 percent of the required setback shall be considered by the hearing examiner.
17. Subject to the application of the residential density incentive requirements of Chapter 19.26 MMC.
18. Heights may be increased to 120 feet in commercial zones, 140 feet in industrial zones, including publicly owned facilities, if co-location is provided. (Ord. 2575 § 1, 2005; Ord. 2266 § 5, 1999; Ord. 2151 §§ 7, 8, 1997; Ord. 2131, 1997).

19.12.050 Measurement methods.

The following provisions shall be used to determine compliance with this title:

(1) Street setbacks shall be measured from the existing edge of a street right-of-way or temporary turnaround or in the case of a substandard street, the setbacks shall be measured from the edge of the ultimate right-of-way section planned for the street, except as provided by MMC 19.12.150;

(2) Impervious surface calculations shall not include areas of turf, landscaping, natural vegetation, five-foot (or less) wide pedestrian walkways or surface water retention/detention facilities. (Ord. 2131, 1997).

19.12.060 Calculations – Allowable dwelling units.

Permitted number of dwelling units shall be determined as follows:

(1) The maximum allowed number of dwelling units shall be computed by multiplying the net project area (in acres) by the applicable residential density.

(2) When calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

(a) Fractions of .50 or above shall be rounded up, provided this will not exceed the base density by more than 10 percent; and

(b) Fractions below .50 shall be rounded down. (Ord. 2526 § 10, 2004; Ord. 2151 § 11, 1997).

19.12.070 Calculations – Site area used for density calculations.

(1) All areas of a commercial site may be used in the calculation of allowed residential density.

(2) Sensitive areas and their buffers may be used for calculation of allowed residential density whenever two or more residential lots or dwelling units are created subject to the on-site transfer provisions outlined in MMC 19.24.360.

(3) The net project area of a multiple-family or single-family site may be used in the calculation of allowed residential density. (Ord. 2131, 1997).

19.12.080 Lot area – Prohibited reduction.

Any portion of a lot that was required to calculate and ensure compliance with the standards and regulations of this title shall not be subsequently subdivided or segregated from such lot. (Ord. 2131, 1997).

19.12.090 Lot area – Minimum lot area for construction.

Except as provided for in Chapter 19.48 MMC:

(1) In the R zones, a single-family dwelling may be established on an existing vacant lot, which cannot satisfy the bulk or dimensional requirements of this chapter, provided the following criteria are met:

(a) The lot was established by conveyance of record prior to 1970 and its dimensions have not been modified since said conveyance; or the lot was created by an approved plat and satisfied the bulk and dimensional requirements applicable at the time of its creation; and

(b) The lot is not less than 4,000 square feet in size, or such greater size as may be required by the Snohomish health district if an on-site sewage disposal system is involved; and

(c) Development of the lot will comply with all bulk and dimensional regulations in this chapter relating to setbacks, maximum lot coverage and off-street parking, as such regulations exist on the date of application for development permits.

(2) In the RU zone:

(a) Construction shall not be permitted on a lot containing less than 5,000 square feet; and

(b) Construction shall be limited to one dwelling unit and residential accessory uses for lots greater than 5,000 square feet, but less than 12,500 square feet. (Ord. 2526 § 11, 2004; Ord. 2131, 1997).

19.12.100 Setbacks – Specific building or use.

When a building or use is required to maintain a specific setback from a property line or other building, such setback shall apply only to the specified building or use. (Ord. 2131, 1997).

19.12.110 Setbacks – Modifications.

The following setback modifications are permitted:

(1) When the common property line of two lots is covered by a building(s), the setbacks required by this chapter shall not apply along the common property line; and

(2) When a lot is located between lots having nonconforming street setbacks, the required street setback for such lot may be the average of the two nonconforming setbacks or 60 percent of the required street setback, whichever results in the greater street setback. (Ord. 2131, 1997).

19.12.120 Setbacks – From regional utility corridors.

(1) In subdivisions and short subdivisions, areas used as regional utility corridors shall be contained in separate tracts.

(2) In other types of land development permits, easements shall be used to delineate such corridors.

(3) All buildings and structures shall maintain a minimum distance of five feet from property or easement lines delineating the boundary of regional utility corridors, except for utility structures necessary to the operation of the utility corridor. (Ord. 2131, 1997).

19.12.130 Setbacks – From private roads or access easements.

Lots adjacent to a private road or access easements, serving two or more lots, shall provide the required front yard setback for the underlying zone. (Ord. 2131, 1997).

19.12.140 Setbacks – From alleys.

(1) Structures may be built to five feet of the property line abutting an alley, except as provided in subsection (2) of this section.

(2) Vehicle access points from garages, carports or fenced parking areas shall be set back a minimum of 10 feet from the lot line abutting an alley, except where the access point faces an alley with a right-of-way width of 10 feet, in which case the garage carport, or fenced parking area shall not be located within 20 feet from the rear lot line. No portion of the garage or the door in motion may cross the property line. (Ord. 2464 § 1, 2003; Ord. 2298 § 15, 1999; Ord. 2131, 1997).

19.12.150 Setbacks – Adjoining half-street or designated arterial.

In addition to providing the standard street setback, a lot adjoining a half-street or designated arterial shall provide an additional width of street setback sufficient to accommodate construction of the planned half-street or arterial. (Ord. 2131, 1997).

19.12.160 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 may project to the property line;

(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. (Ord. 2298 § 16, 1999; Ord. 2131, 1997).

19.12.170 Height – Exceptions to limits.

The following structures may be erected above the height limits of MMC 19.12.030 and 19.12.040:

(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. (Ord. 2145 § 13, 1997; Ord. 2131, 1997).

19.12.180 Lot divided by zone boundary.

When a lot is divided by a zone boundary, the following rules shall apply:

(1) When a lot contains both residential and nonresidential zoning, the zone boundary between the zones shall be considered a lot line for determining permitted building height and required setbacks on the site;

(2) When a lot contains residential zones of varying density, any residential density transfer within the lot shall only be allowed from the portion with the lesser residential density to that of the greater residential density; and

(3) Uses on each portion of the lot shall only be those permitted in each zone pursuant to Chapter 19.08 MMC. (Ord. 2131, 1997).

19.12.190 Sight distance requirements.

Except for traffic control signs, the following sight distance provisions shall apply to all intersections and site access points:

(1) A sight distance triangle area per city standards shall contain no fence, berm, vegetation, on-site vehicle parking area, signs or other physical obstruction between 30 inches and eight feet above the existing street grade;

Note: The area of a sight distance triangle between 30 inches and eight feet above the existing street grade shall remain open.

(2) The planning director or city engineer may require modification or removal of structures or landscaping located in required street setbacks, if:

(a) Such improvements prevent adequate sight distance to drivers entering or leaving a driveway; and

(b) No reasonable driveway relocation alternative for an adjoining lot is feasible. (Ord. 2292 § 11, 1999).

19.12.200 Nonresidential land uses in residential zones.

Except for utility facilities and uses listed in MMC 19.08.100, all nonresidential uses located in the RU or R zones shall be subject to the following requirements:

(1) Building coverage shall not exceed:

(a) Twenty percent of the site in the RU zone.

(b) Fifty percent of the site in the R-4.5 through R-8 zones.

(c) Sixty percent of the site in the R-12 through R-28 zones.

(2) Impervious surface coverage shall not exceed:

(a) Thirty-five percent of the site in the RU zone.

(b) Seventy percent of the site in the R-4.5 through R-8 zones.

(c) Eighty percent of the site in the R-12 through R-28 zones.

(3) Buildings and structures, except fences and wire or mesh backstops, shall not be closer than 30 feet to any property line, except as provided in subsection (4).

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

(5) Parking areas are permitted within the required setback area from property lines, provided such parking areas are located outside of the required landscape area.

(6) Sites shall abut or be accessible from at least one public street functioning at a level consistent with city of Marysville street design standards. New high school sites shall abut or be accessible from a public street functioning as an arterial per the city of Marysville design standards.

(7) The base height shall conform to height limitation of the zone in which the use is located. (Ord. 2131, 1997).

19.12.210 Building setbacks – Multiple-family dwellings and townhouse buildings.

No multiple-family residential building or townhouse building, or portion of such building, shall be closer than 15 feet to any other building. (Ord. 2131, 1997).

19.12.220 Building setbacks – Dwellings above ground floor of commercial uses.

Dwelling units constructed above ground floor commercial uses shall not be required to comply with residential setback requirements; provided, that such dwelling units shall be constructed in compliance with commercial and residential standards of the fire code and the building code. (Ord. 2131, 1997).

19.12.230 Yard setbacks for accessory buildings.

Repealed by Ord. 2464. (Ord. 2131, 1997).

Chapter 19.14

DEVELOPMENT STANDARDS – DESIGN REQUIREMENTS

Sections:

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19.14.210 Duplex performance and design standards.

19.14.010 Purpose.

This chapter applies to new commercial, multifamily residential and high density (8+ du/acre) single-family development. The purpose of this chapter is to:

(1) Encourage the realization and creation of a desirable and aesthetic environment in the city of Marysville;

(2) Encourage and promote development which features amenities and excellence in site planning, streetscape, building design and contribution to community charm;

(3) Encourage creative approaches to the use of land and related physical developments;

(4) Minimize incompatible and unsightly surroundings and visual blight which prevent orderly community development;

(5) Allow a mixture of complementary land uses that may include housing, retail, offices, and commercial services, to create economic and social vitality and to encourage the linking of vehicle trips;

(6) Develop commercial and mixed use areas that are safe, comfortable and attractive to pedestrians;

(7) Reinforce streets as public places that encourage pedestrian and bicycle travel;

(8) Reduce opportunities for crimes against persons and property;

(9) Minimize land use conflicts and adverse impacts;

(10) Provide roadway and pedestrian connections between residential and commercial areas;

(11) Provide public places and open space networks to create gateways, gathering places, and recreational opportunities that enhance the natural and built environment. (Ord. 2572 § 2, 2005).

19.14.020 Applicability and interpretations.

(1) Applicability.

(a) These design standards apply to all new commercial and residential development within the following zones: general commercial (GC), community business (CB), neighborhood business (NB), downtown commercial (DC), mixed use (MU), high density multiple-family (R-28), medium density multiple-family (R-18), low density multiple-family (R-12), high density single-family, small lot (R-8).

(b) The following activities shall be exempt from these standards:

(i) Individual building permits for single-family residences, duplexes, and accessory uses, which are subject to the building design standards in MMC 19.08.030(2)(16), 19.14.095, and 19.14.210;

(ii) Construction activities which do not require a building permit;

(iii) Interior remodels of existing structures;

(iv) Modifications or additions to existing multifamily, commercial, industrial, office and public properties when the modification or addition:

(A) Constitutes less than 10 percent of the existing horizontal square footage of the use or structure; and

(B) Constitutes less than 10 percent of the existing building's exterior facade.

(c) These standards are intended to supplement the zoning standards in the Marysville Municipal Code. Where these standards and the zoning ordinance standards conflict, the city shall determine which regulation applies based on which is more in the public interest and more consistent with the comprehensive plan.

(2) Interpreting and Applying the Design Standards.

(a) These standards capture the community visions and values as reflected in the comprehensive plan's neighborhood planning areas. The city's community development director (hereinafter referred to as director) retains full authority to determine whether a proposal meets these standards. The director is authorized to promulgate guidelines, graphic representations, and examples of designs and methods of construction that do or do not satisfy the intent of these standards. The following resources can be used in interpreting the guidelines: Residential Development Handbook for Snohomish County Communities (prepared for Snohomish County Tomorrow by Makers, Inc.), Site Planning and Community Design for Great Neighborhoods (Frederick D. Jarvis, 1993), and City Comforts (David Sucher, 1996).

(b) Within these standards, certain words are used to indicate the relative importance and priority the city places upon a particular standard.

(i) The words "shall," "must," and "is/are required" mean that the development proposal must comply with the standard unless the director finds that:

(A) The standard is not applicable in the particular instance; or

(B) The development proposal meets the intent of the standards in some other manner.

(ii) The word "should" means that the development proposal will comply with the standard unless the director finds that:

(A) The standard is not applicable in the particular instance;

(B) The development proposal meets the intent of the standards in some other manner; or

(C) There is convincing evidence that applying the standard would not be in the public interest.

(iii) The words "is/are encouraged," "can," "consider," "help," and "allow" mean that the action or characteristic is allowed and will usually be viewed as a positive element in the city's review.

(c) The project proponent may submit proposals that he/she feels meet the intent of the standards but not necessarily the specifics of one or more standards. In this case, the director will determine if the intent of the standard has been met. (Ord. 2572 § 2, 2005).

19.14.030 Lot segregations – Zero lot line development.

In any PRD overlay zone, interior setbacks may be modified during subdivision or short subdivision review as follows:

If a building is proposed to be located within a normally required interior setback:

(1) An easement shall be provided on the abutting lot of the subdivision that is wide enough to ensure a 10-foot separation between the walls of structures on adjoining lots, except as provided for common wall construction;

(2) The easement area shall be free of structures and other obstructions that would prevent normal repair and maintenance of the structure's exterior;

(3) Buildings utilizing reduced setbacks shall not have doors that open directly onto the private yard areas of abutting property. Windows in such buildings shall not be oriented toward such private yard areas unless they consist of materials such as glass block, textured glass, or other opaque materials, and shall not be capable of being opened, except for clerestory-style windows or skylights; and

(4) The final plat or short plat shall show the approximate location of buildings proposed to be placed in a standard setback area. (Ord. 2131, 1997).

19.14.040 Reserved.

(Ord. 2131, 1997).

19.14.050 Site and building design standards.

(1) Applicability.

(a) Prior to submitting a building permit application, all development to which these standards apply shall be required to submit a site plan addressing the standards in this section for administrative review and approval by the community development director.

(b) The site and building design standards of this section apply to commercial and multiple-family developments, whereas only subsections (2) and (3) of this section apply to single-family and condominium developments.

(2) Relationship of Building(s) to Site and Street Front.

(a) The site shall be planned to create an attractive street edge and accommodate pedestrian access. Examples of ways that a development meets the requirements of this provision are to:

(i) Define the street edge with buildings, landscaping or other features.

(ii) Provide for building entrances that are visible from the street.

(iii) Provide for a sidewalk at least five feet wide if there is not space in the public ROW.

(iv) Provide building entries that are accessed from the sidewalk. Preferably these access ways should be separated from the parking and drive aisles. If access traverses the parking lot, then it should be raised and clearly marked.

(v) Provide for businesses that require outdoor display oriented to the street, such as nurseries and auto sales, to have such display be raised and clearly marked.

(b) The development shall create a well-defined streetscape to allow for the safe movement of pedestrians. Whenever possible, building setbacks shall be minimized and parking and drive-through passageways shall be relegated to the side and rear of buildings.

(c) The development shall provide site development features that are visible and pedestrian accessible from the street. These features could include plazas, open space areas, employee lunch and recreational areas, architectural focal points, and access lighting.

(3) Relationship of Building(s) and Site to Adjoining Area.

(a) Where adjacent buildings and neighborhoods are consistent with the comprehensive plan and desired community character, new buildings and structures should consider the visual continuity between the proposed and existing development with respect to building setbacks, placement of structures, location of pedestrian/vehicular facilities and spacing from adjoining buildings.

(b) Harmony in texture, lines and masses is encouraged.

(c) Attractive landscape transition to adjoining properties shall be provided.

(d) Public and quasi-public buildings and structures shall be consistent with the established neighborhood character.

(4) Landscape and Site Treatment.

(a) Parking lot screening and interior landscaping shall be provided consistent with Chapter

19.16 MMC. The following criteria shall guide review of plans and administration of the landscaping standards in the zoning code:

(i) The landscape plan shall demonstrate visual relief from large expanses of parking areas.

(ii) The landscape plan shall provide some physical separation between vehicular and pedestrian traffic.

(iii) The landscape plan shall provide decorative landscaping as a focal setting for signs, special site elements, and/or pedestrian areas.

(iv) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate curbs, tree guards or other devices.

(v) Where building sites limit planting, the placement of trees or shrubs in parkways or paved areas is encouraged.

(vi) Screening of outdoor service yards and other places which tend to be unsightly shall be accomplished by use of walls, fencing, planting, beans or combinations of these.

(vii) Landscaping should be designed to create definition between public and private spaces.

(viii) Where feasible, the landscape plan shall coordinate the selection of plant material to provide a succession of blooms, seasonal color, and a variety of textures.

(ix) The landscape plan shall provide a transition in landscaping design between adjacent sites, within a site, and from native vegetation areas in order to achieve greater continuity.

(x) The landscape plan shall use plantings to highlight significant site features and to define the function of the site, including parking, circulation, entries, and open spaces.

(xi) Where feasible, the landscape plan shall integrate natural approaches to stormwater management, including featured low impact development techniques.

(b) Street Landscaping. Where the site plan includes streetscape plantings, the following guidelines apply:

(i) Sidewalks and pathways should be separated from the roadway by planting strips with street trees wherever possible.

(ii) Planting strips should generally be at least five feet in width. They should include evergreen shrubs no more than four feet in height and/or ground cover in accordance with the city of Marysville landscape standards (Chapter 19.16 MMC) and administrative landscaping guidelines.

(iii) Street trees placed in tree grates may be more desirable than planting strips in key pedestrian areas.

(iv) Use of trees and other plantings with special qualities (e.g., spring flowers and/or good fall color) are strongly encouraged to unify development.

(c) Plaza/Pedestrian Area Landscaping within Shopping Centers and Mixed Use Site Plans.

(i) A range of landscape materials – trees, evergreen shrubs, ground covers, and seasonal flowers – shall be provided for color and visual interest.

(ii) Planters or large pots with small shrubs and seasonal flowers may be used to create protected areas within the plaza for sitting and people watching.

(iii) Creative use of plant materials, such as climbing vines or trellises, and use of sculpture groupings or similar treatments are encouraged.

(iv) All landscaping plans shall be submitted during site plan review for approval.

(d) Exterior lighting, when used, shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. It should provide adequate lighting to ensure safety and security; enhance and encourage evening activities; and when warranted by the adjoining streetscape theme, provide a distinctive character to the area. In addition, the following shall be addressed:

(i) The site plan shall identify lighting equipment and standards. Uplighting on trees and provisions for seasonal lighting are encouraged.

(ii) Accent lighting on architectural and landscape features is encouraged to add interest and focal points.

(iii) Parking area lighting shall not exceed 25 feet in height and shall be shielded to minimize glare and spillage into the surrounding community.

(5) Building Scale Standards. All elements of building design should form an integrated development, harmonious in scale, line, and mass to ensure that buildings are based on human scale (i.e., the relationship of the size of the building's features to the people that use the building). Design elements should also ensure that large buildings reduce their apparent mass and bulk on elevations visible from streets or pedestrian routes through such methods as facade modulation and architectural detailing, roof treatment, colors materials, and other special features.

(a) Integration. Large buildings should integrate features along their facades visible from the public right-of-way and pedestrian routes and entries to reduce the apparent building mass and

achieve an architectural scale consistent with other nearby structures.

(b) Facade Modulation. Building facades visible from public streets and public spaces should be stepped back or projected forward at intervals to provide a minimum of 40 percent facade modulation. The minimum depth of modulation should be one foot, and the minimum width should be five feet.

(c) Articulation. Buildings should be articulated to reduce the apparent scale of buildings. Architectural details that are used to articulate the structure may include color, arrangement of facade elements, or change in building materials.

(i) Tripartite Articulation. Buildings should provide tripartite building articulation (building top, middle, and base) to provide pedestrian-scale and architectural interest.

(d) Window Treatments. Buildings should provide ample articulated window treatments in facades visible from streets and public spaces for architectural interest and human scale. Windows should be articulated with mullions, recesses, awnings, etc., as well as applying complementary articulation around doorways and balconies.

(e) Architectural Elements. The mass of long or large scale buildings can be made more visually interesting by incorporating architectural elements, such as arcades, balconies, by windows, dormers, and/or columns.

(f) Rooflines. A distinctive roofline can reduce perceived building height and mass, increase compatibility with smaller scale and/or residential development, and add interest to the overall design of the building.

(i) Rooflines with alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval are encouraged.

(ii) Roofs that incorporate a variety of vertical dimensions such as multi-planed and intersecting rooflines are encouraged.

(iii) Flat-roofed designs should include architectural details such as cornices and decorative facings to provide interest to the roofline.

(g) When there is a change in the building plane, a change in the building materials, colors or patterns should also be considered.

(h) Landscaping. The landscape plan should provide a trellis, tree or other landscape feature within each interval.

(i) Upper Story Setback. Setting back upper stories helps to reduce the apparent bulk of a building and promotes human scale.

(j) Small Scale Additions. In retail areas, small-scale additions to a structure can reduce the apparent bulk by articulating the overall form. Clustering smaller uses and activities around entrances on street-facing facades also allows for small retail or display spaces that are inviting and add activity to the streetscape.

(6) Building Details, Materials, and Colors.

(a) The building should provide visual interest, distinct design qualities, and promote compatibility and improvement within surrounding neighborhoods and community development through effective architectural detailing and the use of traditional building techniques and materials.

(b) Design Criteria.

(i) Building materials and building techniques should be of high durability and high quality. For commercial and residential uses, the use of brick is encouraged on walls or as accents on walls. Large areas of rough-cut wood, wide rough-cut lap siding, or large areas of T-111, plywood, or similar materials are prohibited. Vinyl siding is prohibited on the ground floor of commercial buildings.

(ii) Buildings should be enhanced with appropriate details. The following elements are examples of techniques used on buildings to provide detail:

(A) Ornate rooflines, including use of ornamental molding, entablature, frieze, or other roofline devices.

(B) Overhead weather protection along sidewalks.

(C) Detailed treatment of windows and doors, including use of decorative lintels, sills, glazing, door design, molding or framing details around all windows and doors located on facades facing or adjacent to public streets or parks. Window treatment should be sized as follows:

1. Windows should not have individual glass panes with dimensions greater than five feet by seven feet.

2. Windows should be surrounded by trim, molding and/or sill at least four inches wide. Commercial buildings with no trim or molding should have window frames at least two inches wide.

3. Individual window units should be separated from adjacent window units by at least six inches of the building's exterior finish material.

(7) Public or Private Open Space. Where feasible and appropriate, larger (over 10 acres) commercial and residential developments should incorporate open spaces into the site design to provide community gathering space and neighbor-

hood meeting areas. These areas should provide outdoor spaces for relaxing, eating, socializing, and recreating. The following standards apply to these outdoor areas:

(a) Plazas and Gathering Places.

(i) Areas should be sized between 5,000 and 10,000 square feet.

(ii) Plazas and gathering places should be able to serve as a center for daily activities.

(iii) Paving should be unit-pavers or concrete with special texture, pattern, and/or decorative features.

(iv) Pedestrian amenities should be provided, including features such as seating, plants, drinking fountains, artwork, and such focal points as sculptures or water features.

(v) Lighting fixtures should be approximately 10 to 15 feet above the surface. The overall lighting in the plaza should average at least two foot-candles.

(b) Open Spaces and Project Details. The listed literature resources in MMC 19.14.020(2)(a) provide smaller scale concepts for integrating public gathering places and open spaces into the project design. (Ord. 2572 § 2, 2005).

19.14.060 Downtown signs and other features.

The following standards are intended to encourage more attractive human scale signage and other features for new developments in the downtown neighborhood, Planning Area 1 of the city of Marysville comprehensive plan:

(1) Signage will be consistent with Chapter 19.20 MMC, Sign Code, as amended. In addition, the following signs and sign elements are prohibited:

(a) Pole-mounted signs unless consistent with the comprehensive design plan permit criteria set forth in MMC 19.20.220;

(b) Signs employing moving or flashing lights; and

(c) Cardboard signs.

(2) Public and Directional Signs.

(a) Public and directional signs may include directional signage and street name markers, pedestrian trail markers, project tenant directories, kiosks, theme elements, and miscellaneous exterior site signage.

(b) Directional signage shall be required to direct traffic to public parking.

(c) Pedestrian trail/routes shall be identified.

(3) Building plans should include panels, raceways, etc., where attached signs are to be located.

(4) Freestanding signs must include the same architectural elements as the adjacent buildings.

(5) Miscellaneous structures, art, and street furniture located on private property, public ways, and other public property shall be designed to be part of the architectural concept of the design and landscape. Materials shall be compatible with buildings, scale shall be appropriate, colors shall be in harmony with buildings and surroundings, and proportions shall be to scale. (Ord. 2572 § 2, 2005).

19.14.070 Commercial, multiple-family, townhome, and group residences – Vehicular access and parking location.

(1) On sites abutting an alley, commercial, apartment, townhome and all group residences developments shall have parking areas placed to the rear of buildings with primary vehicular access via the alley, except when waived by the planning director due to physical site limitations.

(2) When alley access is available, and provides adequate access for the site, its use will be encouraged.

(3) When common parking facilities for attached dwellings and group residences exceed 30 spaces, no more than 50 percent of the required parking shall be permitted between the street property line and any building, except when authorized by the planning director due to physical site limitations.

(4) Direct parking space access to an alley may be used for parking lots with five or fewer spaces. (Ord. 2151 § 12, 1997; Ord. 2131, 1997).

19.14.080 Waterfront overlay.

(1) The Ebey Slough is a broad, tidally influenced channel that runs southeasterly towards the Sunnyside neighborhood and west to Puget Sound and creates a waterfront corridor that forms the southern boundary of the downtown subarea plan. This corridor is the waterfront overlay zone.

(a) A new waterfront boat launch will be operational in 2005, located at the southwest corner of First Street and State Avenue. This will create a waterfront destination within the downtown that will be the site of community festivals, gatherings and recreation.

(b) Maximizing public shoreline access and views is paramount in future development of this area.

(2) In order to maximize the appeal of the Ebey Slough waterfront corridor as set forth in subsection (1) of this section, the following standards shall be incorporated into all new development within the waterfront overlay:

(a) Landscaping can be formal or informal in style; however, plantings should frame vistas and emphasize views, where applicable.

(b) Buildings with upper floors containing windows and/or balconies overlooking the Ebey Slough waterfront are strongly encouraged.

(c) Pedestrian amenities shall be provided, such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature.

(d) Pedestrian-oriented spaces are encouraged along the pedestrian connections and near key building entries. They can be small to large widening of walking space, landscaped areas, areas for outdoor dining, or small play areas. In addition, the following standards apply to pedestrian oriented space:

(i) Lighting fixtures should be approximately 10 to 15 feet above the surface and may be building mounted.

(ii) The spaces must have visual and pedestrian access (including barrier-free access) to abutting and public streets or pathways.

(iii) Walking surfaces should be either approved unit pavers or colored and textured concrete.

(iv) At least one linear foot of seating area (at least 16 inches deep) or one individual seat per 60 square feet of plaza area or open space should be included (seating can include benches, low walls, stairs, or ledges).

(v) Landscaping that does not act as a visual barrier is encouraged.

(vi) Buildings abutting pedestrian-oriented space must have pedestrian-oriented facades (see building orientation standards below).

(e) Buildings should provide an attractive pedestrian environment; enhance the character of the streetscapes within and surrounding the area; enhance the use and safety of open spaces by fronting onto them; and provide attractive building facades adjacent to parking lots. In addition, the following standards apply to buildings within the waterfront overlay:

(i) Secondary entrances along corridors are strongly encouraged.

(ii) Since buildings will front the community open space and trails, exposing side and rear walls of new buildings to public view, these sides should be designed and/or screened to provide an attractive streetscape or walking entry to the waterfront.

(iii) Kiosks and pedestrian walkways shall be integrated into the site design as appropriate.

(f) In order to encourage a safe environment for pedestrians to move throughout the planning area and separation of pedestrian and vehicular traffic and to create a varied and rich environment to encourage people to explore the area on foot, the following standards shall apply to public open space, sidewalks, and pathways within the waterfront overlay:

(i) All public open spaces, sidewalks, and pathways shall meet ADA standards.

(ii) Sidewalks should be separated from the roadway by planting strips with street trees wherever possible. Planting strips should generally be at least five feet in width and include evergreen shrubs no more than four feet in height and/or ground cover and canopy-type broadleaf trees placed an average of 25 feet on center.

EXCEPTIONS:

(A) Where space is limited, planting strips less than five feet in width may be permitted by the city;

(B) Street trees placed in tree grates may be more desirable than planting strips in key pedestrian areas.

(iii) Acceptable sidewalk widths may range from four to 10 feet depending on adjacent uses and anticipated pedestrian activity. Refer to city engineering design and development standards for appropriate sidewalk widths on designated roads and arterials.

(iv) Pedestrian crosswalks shall be provided at all intersections.

(v) The addition of texture to the ground plane of key sidewalks and pathways with unit pavers, bricks, tiles, or public artwork is encouraged.

(vi) Pathways should be at least 10 feet in width.

(vii) Pedestrian amenities, including landscaping and seasonal flowers, benches, lighting, and/or artwork, shall be provided along pathways to create visual interest. (Ord. 2572 § 2, 2005).

19.14.085 Building facade modulation for multiple-family buildings.

Repealed by Ord. 2572. (Ord. 2228 § 2, 1999; Ord. 2187 § 2, 1998).

19.14.090 Design standards for gas stations, convenience stores, car washes and similar uses.

(1) All structures (primary building, screening walls, canopy, canopy supports, signs, dumpster enclosures, etc.) should match architecturally.

(2) Pad buildings and landscaping should match the surrounding shopping center.

(3) Architectural interest and detail should be provided on all sides of building.

(4) Quality roofing materials (mission tile, concrete tile, standing seam metal, etc.) should be used on all visible pitched roofs.

(5) Excessively straight and unvarying rooflines should be "broken" by using offsets, varying heights, stepping, or different orientations to produce a more interesting roofline.

(6) The exterior building material should be continued along the base of the store front windows at a minimum height of 20 inches.

(7) A three-foot wide strip of foundation landscaping shall be provided along at least 50 percent of the building's frontage.

(8) A two-foot plus border of textured paving should be provided: (a) around the footprint of the gasoline canopy; (b) between the pump area and the store entrance; (c) where the public sidewalk crosses the driveways; and (d) in other "pedestrian areas."

(9) Vehicular and pedestrian cross-access should be provided with adjacent commercial properties.

(10) Pad development sites should "share" driveways with the surrounding shopping center when reasonable to do so.

(11) All walls shall incorporate offsets to break up long lineal masses and cap detail or relief band to add interest. Wall materials and colors (on both sides of wall) should match primary building.

(12) A three-foot masonry screen wall, earth berm, or combination shall be provided along all street frontages.

(13) Refuse containers shall be screened with a six-foot masonry wall on three sides.

(14) Automobile service and wash bays visible from the public street shall be screened with a six-foot masonry wall.

(15) Service activity areas (automotive, tire, etc.) should be oriented away from residential uses.

(16) Signage shall be an integral design element of a project and compatible with the exterior architecture with regard to location, scale, color and lettering.

(17) All sign colors and materials should match those of the building or the "corporate colors." Opaque or muted sign backgrounds with cabinet-type signs are encouraged.

(18) No commercial signage should occupy the pump island area. All directional signs should be architecturally integrated.

(19) Gasoline price signs should be architecturally integrated with other signs or structures. (Ord. 2572 § 2, 2005).

19.14.095 Small lot single-family dwelling development standards.

Single-family dwellings to be built on lots having less than 5,000 square feet in any zone, or developments proposing to construct multiple single-family dwelling units on a single lot (i.e., condominium developments), shall meet the development standards contained herein. It is the intent of these development standards that single-family dwellings on small lots and condominium projects be compatible with neighboring properties, friendly to the streetscape, and in scale with the lots upon which they are to be constructed. The planning director is authorized to promulgate guidelines, graphic representations, and examples of housing designs and methods of construction that do or do not satisfy the intent of these standards.

(1) Where lots front on a public street, the house shall have doors and windows which face the street. Houses should have a distinct entry feature such as a porch or weather covered entry way

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with minimum dimensions of six feet by six feet. Covered porches open on three sides may encroach six feet into the required front setback. The planning director may approve any entry way with dimensions different than the six feet by six feet dimensions specified herein; provided, that the entry visually articulates the front facade of the dwelling so as to create a distinct entry way, meets setback requirements, provides at least 36 square feet of weather cover, and has a minimum dimension of four feet.

(2) If the lot abuts an alley, the garage or off-street parking area shall take access from the alley, unless precluded by steep topography. No curb cuts shall be permitted unless access from the alley is precluded by steep topography.

(3) If there is no alley access and the lot fronts on a public street, the front of the garage shall be set back five feet from the front of the dwelling, and the dwelling(s) shall have entry, window and/or roofline design treatment which emphasizes the house more than the garage. Driveways shall not exceed 20 feet in width in the required front setback area. On a case-by-case basis, the planning director may approve a maximum five-foot rear setback reduction in order to achieve this requirement.

(4) Dwellings built on lots without direct frontage on the public street should be situated to respect the privacy of abutting homes and to create usable yard space for the dwelling(s). The review authority shall have the discretion to establish setback requirements that are different than may otherwise be required in order to accomplish these objectives.

(5) Each dwelling unit shall have horizontal or vertical variation within each unit's front building face and between the front building faces of all adjacent units/structures to provide visual diversity and individual identity to each unit. Upon building permit application, a plot plan of the entire structure shall be provided by the builder to show compliance with this requirement. The planning director shall review and approve or deny the building design which may incorporate variations in roof lines, setbacks between adjacent buildings, and other structural variations. Where the applicant and the planning director are not able to reach agreement on the provisions of the final building design, the dispute shall be submitted to the hearing examiner in accordance with the procedures established in MMC Title 15, Development Code Administration.

(6) The same building plans cannot be utilized on consecutive lots. "Flip-flopping" of plans is not permitted; provided, that upon demonstration to the planning director that the alteration of building facades would provide comparable visual diversity and individual identity to the dwelling units as different building plans, this provision shall not apply. Materials and/or methods which may be utilized to achieve visual diversity include, but are not limited to use of differing siding material, building modulations and roofline variations.

(7) Lot coverage by buildings shall not exceed 50 percent.

(8) Approximately sized and placed landscaping should be provided to enhance the streetscape, to provide privacy for dwellings on abutting lots, and to provide separation and buffering on easement access drives.

(9) Accessory dwelling units shall not be permitted for single-family detached dwellings on lots containing less than 5,000 square feet. (Ord. 2423 § 1, 2002).

19.14.100 On-site recreation – Space required.

(1) Except when fees in-lieu of commonly owned recreation space are provided pursuant to MMC 19.14.110 through 19.14.140, multiple-family developments in the R-12-28 and mixed use zones shall provide outdoor or active recreation space, or a combination thereof, in accordance with the following chart:

Type of dwelling unit	Outdoor open space	Active recreation facility
(a) Studio and one bedroom	90 square feet per unit	45 square feet per unit
(b) Two bedroom	130 square feet per unit	65 square feet per unit
(c) Three or more bedroom	170 square feet per unit	85 square feet per unit

(2) Any recreation space located outdoors 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) In an apartment or townhome development, have a street roadway or parking area front-

age along 10 to 50 percent of the recreation space perimeter (except trail segments); and

(f) Be centrally located and accessible and convenient to all residents within the development.

(3) Indoor recreation areas may be credited towards the total recreation space requirement, when the city determines that such areas are located, designed and improved in a manner which provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors.

(4) Active recreation facilities may include, but are not limited to, exercise rooms, sport courts, swimming pools, tennis courts, game rooms, or community centers. Outdoor open space shall not include areas devoted to parking or vehicular access, and should be one continuous tract. (Ord. 2298 § 17, 1999; Ord. 2131, 1997).

19.14.110 On-site recreation – Play areas required.

(1) All apartment, and townhome development, excluding senior citizen apartments, shall provide tot/children play areas within the recreation space on-site, except when facilities are available within 1/4 mile that are developed as public parks or playgrounds and are accessible without the crossing of arterial streets.

(2) If any play apparatus is provided in the play area, the apparatus shall meet Consumer Product Safety Standards for equipment, soft surfacing and spacing, and shall be located in an area that is:

(a) At least 400 square feet in size with no dimension less than 20 feet; and

(b) Adjacent to main pedestrian paths or near building entrances;

(c) Visual access from adjacent residential structures is provided. (Ord. 2131, 1997).

19.14.120 On-site recreation – Maintenance of recreation space or dedication.

(1) Unless the recreation space is dedicated to city of Marysville pursuant to subsection (2) of this section, maintenance of any recreation space retained in private ownership shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the city.

(2) Recreation space may be dedicated as a public park when the following criteria are met:

(a) The dedicated area is at least 1.5 acres in size, except when adjacent to an existing or planned public park;

(b) The dedicated land provides one or more of the following:

(i) Shoreline access,

(ii) Regional trail linkages,

(iii) Habitat linkages,

(iv) Recreation facilities, or

(v) Heritage sites;

(c) The entire dedicated area is located less than one mile from the project site. (Ord. 2131, 1997).

19.14.130 On-site recreation – Fee in-lieu of recreation space.

Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of providing on-site open space or recreation when a proposed development is located within 1,000 feet of an existing or proposed recreational facility. (Ord. 2131, 1997).

19.14.140 On-site recreation – Acceptance criteria for fee in-lieu of recreation space.

City of Marysville acceptance of this payment is discretionary, and may be permitted if:

(1) The proposed on-site recreation space does not meet the criteria of MMC 19.14.120(2); or

(2) The recreation space provided within a public park in the vicinity will be of greater benefit to the prospective residents of the development. (Ord. 2131, 1997).

19.14.150 Storage space and collection points for recyclables.

Developments shall provide storage space for the collection of recyclables as follows:

(1) The storage space shall be provided at the rate of:

(a) One and one-half square feet per dwelling unit in multiple-dwelling developments except where the development is participating in a public agency-sponsored or approved direct collection program in which individual recycling bins are used for curbside collection;

(b) Two square feet per every 1,000 square feet of building gross floor area in office, educational and institutional developments;

(c) Three square feet per every 1,000 square feet of building gross floor area in manufacturing and other nonresidential developments; and

(d) Five square feet per every 1,000 square feet of building gross floor area in retail developments.

(2) The storage space for residential developments shall be apportioned and located in collection points as follows:

(a) The required storage area shall be dispersed in collection points throughout the site when a residential development comprises more than one building.

(b) There shall be one collection point for every 30 dwelling units.

(c) Collection points may be located within residential buildings, in separate buildings/structures without dwelling units, or outdoors.

(d) Collection points located in separate buildings/structures or outdoors shall be no more than 200 feet from a common entrance of a residential building.

(e) Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.

(3) The storage space for nonresidential development shall be apportioned and located in collection points as follows:

(a) Storage space may be allocated to a centralized collection point.

(b) Outdoor collection points shall not be located in any required setback areas.

(c) Collection points shall be located in a manner so that hauling trucks do not obstruct pedestrian or vehicle traffic on-site, or project into any public right-of-way.

(d) Access to collection points may be limited, except during regular business hours and/or specified collection hours.

(4) The collection points shall be designed as follows:

(a) Dimensions of the collection points shall be of sufficient width and depth to enclose containers for recyclables.

(b) Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site.

(c) Collection points shall be identified by signs not exceeding two square feet.

(d) A six-foot wall or fence shall enclose any outdoor collection point, excluding collection points located in industrial developments that are greater than 100 feet from residentially zoned property.

(e) Enclosures for outdoor collection points and buildings used primarily to contain a collection point shall have gate openings at least 12 feet wide for haulers. In addition, the gate opening for any building or other roofed structure used primarily as a collection point shall have a vertical clearance of at least 12 feet.

(f) Weather protection of recyclables shall be ensured by using weather-proof containers or by providing a roof over the storage area.

(5) Only recyclable materials generated on-site shall be collected and stored at such collection points. Except for initial sorting of recyclables by users, all other processing of such materials shall be conducted off-site. (Ord. 2131, 1997).

19.14.160 Fences.

(1) The maximum height of fences are as follows:

(a) Residential Zones on Nonarterial Streets.

(i) Front yard – Four feet solid or six feet if entirely open-work fence.

(ii) Side yard – Six feet.

(iii) Rear yard – Six feet.

(b) Residential Zones on Arterial Streets.

(i) Front yard – Six feet; provided, that the top two feet are constructed as an open-work fence.

(ii) Side yard – Six feet.

(iii) Rear yard – Six feet.

(c) Business and Commercial Zones. All yards – Eight feet.

(d) Industrial Zones. All yards – 10 feet.

(2) The planning director shall have authority to administratively grant a variance to increase the maximum height of side and rear yard fences in residential zones to eight feet. The planning director is authorized to issue variances in cases of special hardships, unique circumstances and practical difficulties. No variance shall be granted which would be detrimental to the public health, welfare or environment. Each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for any subsequent application. The decision of the planning director on a variance application shall be final, subject to appeal to the city hearing examiner, pursuant to the procedures in Chapter 15.11 MMC. Appeals shall be filed within 14 days of the written decision of the planning director. The following information will be considered in review of the variance request:

(a) The fence is designed and constructed so that is does not cause a public safety hazard by obstructing visibility of pedestrians or motorists using streets, driveways or sidewalks.

(b) The applicant can demonstrate to the satisfaction of the planning director, or designee, that the increased fence height will not adversely affect adjacent property owners or obstruct view corridors.

(c) The applicant provides written notification to immediately adjoining property owners of the height and location of the proposed fence.

(d) Fences greater than six feet in height are required to obtain a city building permit.

(3) When a protective fence is located on top of a rockery within the required setback area, any portion of the fence above a height of six feet shall be an open-work fence.

(4) No barbed or razor-wire fence shall be located in any residential zone or any commercial zone, except for the confinement of livestock.

(5) Open wire mesh or similar type fences may be erected in excess of the maximum heights permitted in this code on the periphery of playgrounds associated with private and public schools and parks, public facilities, transmitter and transformer sites, and government installations where security or public safety is required.

(6) The height of a fence or freestanding wall, retaining wall or combination of the same, shall be measured from its top surface, board, rail, or wire to the natural elevation of the ground on which it stands.

(7) Where the finished grade is a different elevation on either side of a fence, the height may be measured from the side having the highest elevation.

(8) There shall be no setback requirements for fences and freestanding walls in side yards or rear yards. In front yards solid fences and freestanding walls, between four and six feet in height, shall be set back at least 20 feet from the street right-of-way; provided, that for a corner lot the 20-foot setback shall only apply to the street which provides primary access to the lot. This setback requirement may be waived or modified by the city engineer or his designee if a fence is designed and constructed so that it does not cause a public safety hazard by obstructing visibility of pedestrians or motorists using streets, driveways or sidewalks. A four-foot fence, or six-foot fence with the top two feet constructed as an open-work fence, may be constructed on the front property line, provided the fence is designed and constructed so that it does not cause a public safety hazard by obstructing visibility of pedestrians or motorists using streets, driveways or sidewalks. For special rules relating to fences and walls near fire hydrants, see MMC 14.03.050(2) and the Uniform Fire Code. (Ord. 2422 § 1, 2002; Ord. 2131, 1997).

19.14.170 Fence variance requests.

In considering a request for a modification of the fence requirements outlined in MMC 19.14.160, the hearing examiner shall consider the following factors:

(1) If the proposed fence is designed and constructed so that it does not cause a public safety hazard by obstructing visibility of pedestrians or motorists using streets, driveways or sidewalks;

(2) The proposed fence will not infringe upon or interfere with utility and/or access easements or covenant rights or responsibilities;

(3) Other information which is relevant and necessary to make a determination as to the validity of the request for variation. Such additional information may include site plans, elevation drawings, and information concerning the surrounding properties and uses. (Ord. 2131, 1997).

19.14.180 Special limitations in the R-12-28 zones.

Where a single lot or a combination of lots under single ownership is developed with more than one multiple-family residential building, such property shall not be subsequently subdivided except when each division thereof complies with all requirements of applicable city codes and ordinances. (Ord. 2131, 1997).

19.14.190 Special limitations in the business and commercial zones.

Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shaded and/or directed so as not to visibly create a nuisance to any property in a residential zoning classification. (Ord. 2131, 1997).

19.14.200 Special limitations in the industrial zones.

(1) Where illuminated signs and illuminated areas are permitted, such illuminating devices shall be shaded and/or directed so as not to visibly create a nuisance to any property in a residential zone classification.

(2) Industrial and exterior lighting shall not be used in such a manner that it produces glare on public highways. Arc welding, acetylene-torch cutting, or similar processes shall be performed so as not to be seen from any point beyond the outside of the property.

(3) The storage and handling of inflammable liquids, liquefied petroleum, gases, and explosives shall comply with rules and regulations falling under the jurisdiction of the city's fire chief, and the laws of the state of Washington. Bulk storage of inflammable liquids below ground shall be permitted, and the tanks shall be located not closer to the property line than the greatest dimension (diameter, length or height) of the tank.

(4) Provisions shall be made for necessary shielding or other preventive measures against interference as occasioned by mechanical, electrical and nuclear equipment, and uses or processes with electrical apparatus in nearby buildings or land uses.

(5) Liquid and solid wastes, storage of animal or vegetable waste which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view from eye level from any property line in an industrial district. (Ord. 2131, 1997).

19.14.210 Duplex performance and design standards.

In addition to the regulations set forth in MMC 19.40.070 through 19.14.090, all new duplexes located within any residential zone shall meet the following standards and regulations:

(1) Bulk and Setback Variation. Each duplex structure shall have horizontal or vertical variation within each dwelling unit's front building face and between the front building faces of all adjacent units/structures to provide visual diversity to the duplex structures and individual identity to duplex units. Upon building permit or conditional use permit (if required) application, a plot plan of the entire structure in which each unit is located shall be provided by the builder to show compliance with this requirement. The planning director shall review and approve or deny the building design which may incorporate variations in roof lines, setbacks between adjacent buildings or lots, and other structural variations. Where the applicant and the planning director are not able to reach agreement on the provisions of the final building design, the dispute shall be submitted to the hearing examiner in accordance with the procedures established in MMC Title 15, Development Code Administration.

(2) Building Plans. The same building plan cannot be utilized on consecutive lots. "Flip-flopping" of plans is not permitted; provided, that upon demonstration to the planning director that the alteration of building facades would provide comparable visual diversity and individual identity to the duplexes as different building plans, this provision shall not apply. Materials and/or methods which may be utilized to achieve visual diversity include, but are not limited to use of differing siding material, building modulations and roofline variations.

(3) Landscaping. At the time of application for a building permit or conditional use permit (if required), the developer shall submit landscaping plans for, at a minimum all front and side setbacks and common open space areas associated with the building for which permit application is made. Landscaping shall consist of two native trees per unit, planted in the front yard, which are at least one and one-half inch in caliper for deciduous or six feet in height for evergreen trees, plus a mixture of trees, shrubs and groundcover as appropriate to the site. All required landscaping shall be installed in accordance with the plans prior to issuance of an occupancy permit. Where applicable, street frontage landscaping shall comply with the city's streetscape plan.

(4) Orientation. Building orientation should be utilized as a method to provide visual diversity and individual identity to the duplex structures; provided, that where physical or economic considerations make such orientation impractical, this provision shall not apply. (Ord. 2131, 1997).

Chapter 19.16

DEVELOPMENT STANDARDS – LANDSCAPING

Sections:

19.16.010 Purpose.
19.16.020 Application.
19.16.030 Landscaping materials and maintenance.
19.16.040 Berms and walls.
19.16.050 Native trees.
19.16.060 Mixed use developments.
19.16.070 Modification due to site characteristics.
19.16.080 Descriptions of screens and landscaping types.
19.16.090 Required landscape buffers.
19.16.100 Landscaping requirements for parking and outdoor display areas.
19.16.110 Landscaping – Plan required.
19.16.120 Landscaping – Maintenance.
19.16.130 Landscaping – Alternative options.

19.16.010 Purpose.

The purpose of this chapter is to preserve the aesthetic character of communities; to improve the aesthetic quality of the built environment; to promote retention and protection of existing vegetation; to reduce the impacts of development on drainage systems and natural habitats; and to increase privacy for residential zones by:

(1) Providing visual relief from large expanses of parking areas and reduction of perceived building scale;

(2) Providing physical separation between residential and nonresidential areas;

(3) Providing visual screens and barriers as a transition between differing land uses;

(4) Retaining existing vegetation and significant trees by incorporating them into the site design where applicable; and

(5) Providing increased areas of permeable surfaces to allow for:

(a) Infiltration of surface water into groundwater resources;

(b) Reduction in the quantity of stormwater discharge; and

(c) Improvement in the quality of stormwater discharge. (Ord. 2131, 1997).

19.16.020 Application.

All new commercial, industrial, and multiple-family development, substantial improvements, or changes in occupancy shall be subject to the provisions of this chapter. For the purpose of this chapter, a substantial improvement means any, structural modification, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the modification or addition is started; provided, that specific landscaping provisions for uses established through a conditional use permit shall be determined during the applicable review process. (Ord. 2131, 1997).

19.16.030 Landscaping materials and maintenance.

Landscaping materials and the maintenance thereof shall conform to and be installed in accordance with the overall site development plan. Landscaping shall be installed prior to building occupancy; provided, that the planning department may authorize up to a 120-day delay where planting season conflicts would produce a high probability of plant loss. For the maintenance and/or replacement of landscaped areas, a bond or assignment of funds shall be required in an amount equal to 25 percent of the cost of the landscaping work, and for a minimum duration of one year. (Ord. 2131, 1997).

19.16.040 Berms and walls.

Berms and walls for noise screening, may be required by the hearing examiner or planning director in accordance with recommendations from a qualified sound consultant. (Ord. 2131, 1997).

19.16.050 Native trees.

Where a site has substantial numbers of native trees, site development shall be sensitive to the preservation of such vegetation, including the root zone. Prior to any site work, any trees which have been identified for preservation shall be fenced at their drip lines. (Ord. 2131, 1997).

19.16.060 Mixed use developments.

Residential structures within a project, shall be buffered from commercial structures and adjoining parking lots by use of vegetation, landscaping, fencing, walls, berms or other similar methods which are deemed under the circumstances to create effective and aesthetically pleasing screens or buffers between such diverse land uses. (Ord. 2131, 1997).

19.16.070 Modification due to site characteristics.

Except where specifically prohibited by the hearing examiner, the planning department, con-

currently with action on the final site plan, may waive or modify landscaping requirements abutting residentially designated property where abutting residential uses will not be adversely affected, and where existing physical improvements, physiographic features or imminent changes in abutting land uses will render full compliance with said requirements ineffective. If said requirements are waived, or width of the buffer reduced, the planning division shall establish the minimum side and rear yard building setbacks from residentially designated property. (Ord. 2131, 1997).

19.16.080 Descriptions of screens and landscaping types.

The following five basic types of landscaping are hereby established and are used as the basis for requirements set forth in Table 1.

(1) Opaque Screen, Type A. A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis on the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The portion of intermittent visual obstructions may contain deciduous plants. Suggested planting patterns that will achieve this standard are included in administrative guidelines prepared by the planning department.

(2) Semi-Opaque Screen, Type B. A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The zone of intermittent visual obstruction may contain deciduous plants. Suggested planting patterns which will achieve this standard are included in administrative guidelines prepared by the planning department.

(3) Broken Screen, Type C. A screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. Suggested planting patterns which will achieve this standard are included in administrative guidelines prepared by the planning department.

(4) Parking Area Landscaping, Type D. Landscaping that provides shade and visual relief while maintaining clear sight lines within parking areas. Planting areas should contain a mixture of evergreen and deciduous trees, shrubs and groundcover in planting islands or strips having an area of at least 75 square feet and narrow dimension of no less than four feet. Suggested planting patterns which will achieve this standard are included in administrative guidelines prepared by the planning department.

(5) Retention/Detention Pond Landscaping, Type E. Landscaping that provides visual relief through a reduction in sight lines visible from a public right-of-way. Landscaping shall include all visible perimeter areas including side slopes and benches visible from said right-of-way. Planting areas must be a minimum of five feet in width along adjacent right-of-way and may incorporate no more than 30 percent deciduous plantings due to maintenance and pond performance constraints. Landscaped areas shall be on the exterior of any walls or fences; provided, that this requirement shall not apply to side slopes or benches within the fenced area. Suggested planting patterns that will achieve this standard are included in administrative guidelines prepared by the community development department.

(6) The screening and landscaping requirements set forth in this section may be interpreted with some flexibility by the planning director in the enforcement of the standards. It is recognized that because of the wide variety of developments and the relationships between them, it is neither possi-

ble nor prudent to establish inflexible screening requirements. Therefore, minor deviations may be granted to allow less intensive screening, or requirements for more intensive screening may be imposed, whenever such deviations are more likely to satisfy the intent of this section. (Ord. 2480 § 1, 2003; Ord. 2131, 1997).

19.16.090 Required landscape buffers.

TABLE 1

Proposed use	Adjacent use	Width of buffer	Type of buffer
Commercial	Property designated single-family by the Marysville comprehensive plan.	20′	A *
Commercial	Property designated multiple-family by the Marysville comprehensive plan.	10′	B *
Commercial, industrial and business park parking areas and drive aisles	Public right-of-way or private access roads 30 feet wide or greater.	10′	C
Commercial, industrial and business park parking areas and drive aisles	Public arterial right-of-way.	20′	C
Industrial and business parks	Property designated residential by the Marysville comprehensive plan.	25′	A
Industrial and business park building and parking areas	I-5 or S.R. 9 right-of-way.	25′	B
Apartment, townhouse, or group residence	Property designated single-family by the Marysville comprehensive plan.	10′	A *
Major communication facilities and cellular relay towers	Property designated residential by the Marysville comprehensive plan.	5′	A *
Storm water management facility	Public right-of-way or private access roads 30 feet wide or greater. ***	5′	E ***
Outside storage or waste area or above ground utility boxes		5′	A**
Wireless communication facility with support structure	Property designated residential by the Marysville comprehensive plan.	20′	A*
Wireless communication facility with support structure	Property designated commercial by the Marysville comprehensive plan.	10′	A*

* Plus a six-foot sight-obscuring fence or wall.
** Or a six-foot sight-obscuring fence or concrete wall.
*** Screening of storm water facilities shall be extended to cover all sides visible from a public right-of-way and shall be consistent with Section 4.1 (34-38) of the Administrative Landscaping Guidelines.

(Ord. 2480 § 2, 2003; Ord. 2412 § 1, 2002; Ord. 2298 § 18, 1999; Ord. 2151 § 13, 1997; Ord. 2145 § 9, 1997; Ord. 2131, 1997).

19.16.100 Landscaping requirements for parking and outdoor display areas.

(1) Parking areas, or outdoor storage areas fronting on a street right-of-way shall provide a landscaped buffer, in accordance with Table 1, along the entire street frontage except for driveways; provided, that the plantings shall not obstruct the sight distance at street intersections.

(2) Additional plantings may be placed on street rights-of-way behind the sidewalk line if the property owner provides the city with a written release of liability for damages which may be incurred to the planting area from any public use or right-of-way.

(3) Ten percent of the parking area, in addition to the required buffers above, shall be landscaped with Type D landscaping; provided, that:

(a) No parking stall shall be located more than 45 feet from a landscaped area;

(b) All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in the satisfaction of these requirements;

(c) Parking lots containing less than 20 parking spaces need provide only perimeter screening to satisfy the 10 percent area requirements;

(d) All landscaped areas shall be protected from vehicle damage by a six-inch protective curbing and, if necessary, wheel blocks;

(e) The landscaping requirements of this section may be modified if a development is located in an area where a special streetscape plan has been approved by the city. (Ord. 2298 § 19, 1999; Ord. 2131, 1997).

19.16.110 Landscaping – Plan required.

A scaled site plan shall be submitted as part of application for a building permit. Said site plan shall include:

(1) Designation and dimensions of all use areas within the lot;

(2) Boundaries and dimensions of all landscape areas including location and common names of all landscape elements;

(3) Area, in square feet of individual and collective landscape areas;

(4) Location of screening, where required;

(5) Method of irrigation, if applicable;

(6) Location of outdoor storage area, if applicable;

(7) Location of driveways. (Ord. 2131, 1997).

19.16.120 Landscaping – Maintenance.

(1) All landscaped areas and plants required by this chapter must be permanently maintained in a healthy growing condition in order to accomplish the purpose for which it was required.

(2) Dead or diseased plants must be replaced within 30 days of notification, or as soon as practical in regard to freezing weather, or complex situations involving the removal and replacement of large trees.

(3) All landscaped areas must be kept free of debris and weeds.

(4) Plant material must not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard.

(5) The owners, their agents and assigns, are responsible for providing, protecting, and maintaining all landscaping material in a healthy and growing condition, replacing it when necessary, and keeping it free of refuse and debris.

(6) All fencing, walls and other features used for screening purposes shall be kept free of litter, debris, and weeds. (Ord. 2131, 1997).

19.16.130 Landscaping – Alternative options.

The following alternative landscape options may be allowed only if they accomplish equal or better levels of screening and are subject to city approval:

(1) When the total area for required landscaping, and that within the dripline of retained trees exceeds 15 percent of the area of the site, the landscaping requirement may be reduced so that the total required landscape and tree retention area will not exceed 15 percent of site area;

(2) The width of the perimeter landscape strip may be reduced up to 25 percent along any portion where: (a) berms at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; and (b) the landscape materials are incorporated elsewhere onsite;

(3) When an existing structure precludes installation of the total amount of required site perimeter landscaping, such landscaping material shall be incorporated on another portion of the site;

(4) The width of any required perimeter landscaping may be averaged, provided the minimum width is not less than five feet;

(5) The width of the perimeter landscaping may be reduced up to 10 percent when a development retains 10 percent of significant trees or 10 significant trees per acre on site, whichever is greater;

(6) The landscaping requirement may be modified when existing conditions on or adjacent to the site, such as significant topographic differences, vegetation, structures or utilities would render application of this chapter ineffective or result in scenic view obstruction;

(7) Street perimeter landscaping may be waived provided a site plan is approved that provides a significant amount of street trees and other pedestrian-related amenities. (Ord. 2131, 1997).

Chapter 19.18

DEVELOPMENT STANDARDS – PARKING AND CIRCULATION

Sections:

19.18.010 Off-street parking – General requirements.
19.18.020 Ingress and egress provisions.
19.18.030 Facilities location.
19.18.040 Provision for building expansion or enlargement.
19.18.050 Mixed occupancies.
19.18.060 Changes in occupancy.
19.18.070 Joint use.
19.18.075 Conditions for joint use.
19.18.080 Site plan required.
19.18.090 Parking area design and construction.
19.18.095 Stacking spaces for drive-through facilities.
19.18.100 Uses for which parking is not specified.
19.18.110 Reduction of required spaces when effective alternatives to automobile access are proposed.
19.18.115 Reduction of required spaces in downtown vision plan area.
19.18.120 Number of spaces – Fractions.
19.18.130 Loading areas.
19.18.140 Landscaping requirements for parking areas.
19.18.150 Variance requests to this chapter.
19.18.160 Spaces required.

19.18.010 Off-street parking – General requirements.

Every building hereafter constructed, reconstructed, expanded or occupied, or use of property hereafter established or modified shall be provided with off-street parking as provided in this chapter, and such parking areas shall be made permanently available and maintained for parking purposes. No building permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved as conforming to the standards of this chapter. (Ord. 2131, 1997).

19.18.020 Ingress and egress provisions.

The director of public works shall have authority to fix the location, width and manner of approach of vehicular ingress or egress from a building or parking area to a public street and to alter existing ingress and egress as may be required to control traffic in the interest of public safety and general welfare. (Ord. 2131, 1997).

19.18.030 Facilities location.

(1) Parking for one and two-family dwellings shall be provided on the same lot as the dwelling unit it is required to serve.

(2) Parking for multiple-family dwellings shall be not over 100 feet from the building it serves.

(3) Parking for uses not specified above shall not be over 500 feet from the building it serves.

(4) All off-street parking spaces for nonresidential uses shall be located on land zoned in a manner which would allow the particular use the parking will serve.

(5) If the parking for a building or use is located on a lot other than the lot upon which the use for which the parking is required is located, the owner of the lot containing the parking shall execute a covenant in a form acceptable to the city attorney, stating that the lot is devoted in whole or in part to required parking for the use on another lot. The owner of the property upon which the main use is located shall record this covenant with the Snohomish County auditor's office to run with the properties on which both the principal use and the off-street parking are located. The owner shall provide a copy of the recorded covenant to the planning department. (Ord. 2131, 1997).

19.18.040 Provision for building expansion or enlargement.

Whenever any building is enlarged in height or ground coverage, off-street parking shall be provided for the expansion or enlargement in accordance with the requirements of the schedule; provided, however, that no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such enlargement is less than 10 percent of the parking spaces specified in the schedule for the building. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building existing on April 25, 1972. (Ord. 2131, 1997).

19.18.050 Mixed occupancies.

In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as hereinafter specified for joint use. (Ord. 2131, 1997).

19.18.060 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 planning director. (Ord. 2298 § 20, 1999; Ord. 2131, 1997).

19.18.070 Joint use.

The planning director may, upon application by the owner or lessee of any property, authorize the joint use of parking facilities by the following uses or activities under the conditions specified herein:

(1) Up to 50 percent of the parking facilities required by this chapter for primarily "nighttime" uses such as theaters, bowling alleys, bars, restaurants and related uses, may be supplied by certain other types of buildings or uses herein referred to as "daytime" uses such as banks, offices, retail and personal service shops, clothing, food, furniture, manufacturing or wholesale and related uses;

(2) Up to 50 percent of the parking facilities required by this chapter for primarily "daytime" uses may be supplied by primarily "nighttime" uses;

(3) Up to 100 percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking facilities provided by uses primarily of a "daytime" nature;

(4) Up to 100 percent of the parking facilities required for a park and ride facility may be supplied by the off-street parking facilities provided by uses primarily of a "nighttime" or "weekend" nature such as a church. (Ord. 2131, 1997).

19.18.075 Conditions for joint use.

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 in addition to which:

(1) The applicant shall show that there is no substantial conflict in the principal operating hours of the two building or uses for which joint use of off-street parking facilities is proposed; and

(2) Parties concerned in the joint use of off-street facilities shall submit a proper legal instrument defining the conditions of the joint use for review and approval of the planning division and city attorney; and

(3) In the event of a change in ownership or use, the joint use instrument may be terminated upon mutual agreement by all parties if reviewed and approved by the planning director. The existing and/or new uses shall comply with all parking and landscaping requirements of this chapter for said uses. (Ord. 2131, 1997).

19.18.080 Site plan required.

A site plan for every new or enlarged off-street parking lot or motor vehicle sales area shall be approved by the planning department prior to construction. The site plan shall be drawn utilizing a common engineering scale (e.g., 1″=20′, 1″=30′, 1″=40′) and will show the proposed/existing development, locations, size, shape and design of the parking spaces, curb cuts, lighting, landscaping, irrigation, parking lot circulation, drainage and other features of the proposed parking lot. (Ord. 2131, 1997).

19.18.090 Parking area design and construction.

(1) Parking stalls and aisles shall be designed according to Figure 1, "Minimum Standards for Off-Street Parking," unless all parking is to be done by parking attendants on duty at all times that the parking lot is in use for the storage of automobiles. Up to 50 percent of the off-street parking spaces required by this chapter may be designed for compact cars in accordance with Table 2 of Figure 1, "Compact Car Stall and Aisle Specifications." Such parking stalls shall be individually marked in the parking plan and on each constructed parking stall as being for compact cars only. Parking at any angle other than those shown is permitted, providing the width of the stalls and aisle is adjusted by interpolation between the specified standards. Parking shall be so designed that automobiles shall not back out into public streets.

(2) Screening in the form of a solid masonry wall, architectural fences or dense coniferous hedges shall be erected or planted and maintained to a height of not less than five feet where a parking lot has a common boundary line with any residentially zoned property.

(3) Parking lot illumination shall be provided for all parking lots containing 15 or more parking spaces, and shall be designed and constructed so as to:

(a) Provide security lighting to all parking spaces;

(b) Be shielded in a manner that does not disturb residential uses or pose a hazard to passing traffic.

Notwithstanding the provisions of this subsection, however, it shall not affect or limit exterior lighting standards as may be imposed by MMC Title 5 on adult cabarets, adult motion picture theaters, and adult drive-in theaters.

(4) Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, and repair of traffic-control devices, signs, light standards, fences, walls, surfacing materials, curbs, railings and drainage facilities.

(5) Hard surfacing shall be required of all parking facilities to allow for marking of stalls and installation of other traffic control devices as set forth by the director of public works and this chapter. Parks, agricultural and similar uses are exempt from this requirement; provided, the facility is surfaced with no less than three inches of crushed gravel and is maintained in a dust-free condition. Gravel parking lots shall use durable raised rails and wheelstops and signs to designate parking spaces.

(6) When parking facilities are surfaced with gravel, the driveway and approaches shall nevertheless be paved with hard surfacing from at least 20 feet back from the property line, to the street.

(7) All off-street parking areas shall be graded and drained so as to dispose of surface water that might accumulate within or upon such area.

(8) Internal vehicle and pedestrian circulation for parking lots shall be approved by the planning director and city engineer. Parking lot circulation shall allow for access so pedestrians and wheelchairs can easily gain access from public sidewalks and bus stops to building entrances through the use of raised concrete sidewalks, or pedestrian paths which are physically separated from vehicle traffic and maneuvering areas. In shopping center parking lots containing more than 100 spaces, such pedestrian/wheelchair paths shall be a minimum of five feet wide and constructed in a manner that they cannot be used as a holding area for shopping carts.

(9) Access driveways for parking areas shall be located so as to cause the least possible conflict with vehicular and pedestrian traffic on public rights-of-way. The planning director and city engineer shall have the authority to restrict the number, size and location of access driveways to private parking areas.

(10) The city engineer may require joint use of driveways by more than one property.

(11) Handicap parking stalls shall meet the requirements of Chapter 11, 1997 Uniform Building Code (as amended) and Federal ADA regulations.

(12) Parking areas should be located and designed to consider impacts to the streetscape. Except for adult facilities as defined by MMC 19.06.012, where feasible, on-site parking shall be located at the sides and rear of buildings or complexes. For adult facilities, on-site parking shall be located where most visible from both the streetscape and the public access to the adult facility.

(13) All parking facilities with more than 50 parking spaces shall provide a bicycle storage area in which to temporarily store bicycles. Bicycle storage space shall consist of a conveniently located and sturdy rack, hooks, bar or locker permitting locking or enclosure of the bicycle frame and both wheels to prevent thefts. With the exception of hanging hooks, bicycle storage facilities shall be designed so as not to support the full weight of the bicycle on one or both wheels. The bicycle storage area shall have the capabilities to hold 10 percent of the number of required parking spaces. The planning director may waive this requirement if it can be demonstrated that the rack would not be reasonably utilized due to the location of the facility.

(14) When provided, bicycle parking facilities shall be located near building entrances rather than in remote areas and shall not impede pedestrian or vehicle traffic flow or cause damage to landscaped areas. (Ord. 2418 § 1, 2002; Ord. 2298 § 21, 1999; Ord. 2131, 1997).

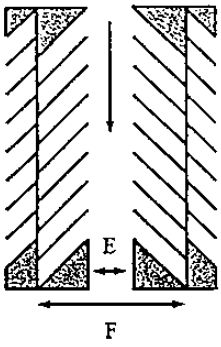
Figure 1
Minimum Standards for Off-Street Parking

Table 1
Conventional Car Stall and Aisle Specifications

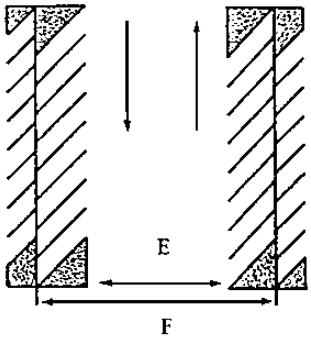
Parking Layout	Angle		Dimensions		One-Way		Two-Way	
Diagram 1	Parking Angle	Stall Width	Curb Length	Stall Depth	Aisle Width	Parking Section Width	Aisle Width	Parking Section Width
	A	B	C	D	E	F	E	F
parallel: one side	0°	8′	21′	8′	12′	20′	22′	30′
two sides	0°	8′	21′	8′	22′	38′	24′	40′
angular:	20°	8.5′	24.9′	14.5′	11′	40′	20′	49′
	30°	8.5′	17′	16.9′	11′	44.8′	20′	53.8′
	40°	8.5′	13.2′	18.7′	12′	49.4′	20′	57.4′
	45°	8.5′	12′	19.4′	13.5′	52.3′	20′	58.8′
	50°	8.5′	11.1′	20′	15.5′	55.5′	20′	60′
	60°	8.5′	9.8′	20.7′	18.5′	59.9′	22′	63.4′
	70°	8.5′	9′	20.8′	19.5′	61.1′	22′	63.6′
	80°	8.5′	8.6′	20.2′	24′	64.4′	24′	64.4′
perpendicular:	90°	8.5′	8.5′	19′	25′	63′	25′	63′

Acceptable Parking Designs

Angular One-Way



Angular Two-Way



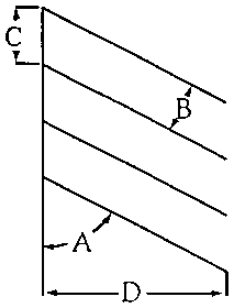


Table 2
Compact Car Stall and Aisle Specifications

Parking Layout	Angle		Dimensions		One-Way		Two-Way	
	Parking Angle	Stall Width	Curb Length	Stall Depth	Aisle Width	Parking Section Width	Aisle Width	Parking Section Width
	A	B	C	D	E	F	E	F
parallel:	0°	8′	20′	8′	12′	28′	20′	36′
angular:	45°	8′	11.3′	15′	12.5′	42.5′	20′	50′
	60°	8′	9.2′	16.5′	17′	50′	22′	55′
perpendicular:	90°	8′	8′	16′	22′	54′	25′	57′

19.18.095 Stacking spaces for drive-through facilities.

(1) A stacking space shall be an area measuring eight feet, six inches by 20 feet with direct forward access to a service window of a drive-through facility. A stacking space shall be located to prevent any vehicles from extending onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other required parking areas. Stacking space for drive-through or drive-in uses may not be counted as required off-street parking spaces.

(2) For each drive-up lane of a financial institution, business service, gas stations, vendor stand, or other drive-through use not listed, a minimum of three stacking spaces shall be provided.

(3) For each service lane of a drive-through restaurant, a minimum of seven stacking spaces shall be provided. For high volume drive-through restaurants up to 12 stacking spaces may be required.

(4) Stacking spaces serving businesses that are located adjacent to a less intensive zone than that in which the business is located, or are located adjacent to a public use area such as a street, sidewalk, park, or trail, shall be landscaped to provide a buffer between the stacking spaces and the adjacent zone or public use. Said landscaping shall conform to the requirements of Chapter 19.16 MMC and the administrative landscaping guidelines prepared by the city. (Ord. 2418 § 2, 2002).

19.18.100 Uses for which parking is not specified.

If this chapter does not specify a parking requirement for a specific use in a particular zone, the planning director shall establish the minimum requirement on a case-by-case basis. Such determination shall be based upon staff investigation, review of requirements for comparable uses, and comparative data as may be available and appropriate for the establishment of minimum parking requirements. The applicant may be required to provide sufficient information to demonstrate that the parking demand for a specific use will be satisfied, based upon existing uses. (Ord. 2131, 1997).

19.18.110 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:

(1) Private vanpool operation;
(2) Transit/vanpool fare subsidy;
(3) Imposition of a charge for parking;
(4) Provision of subscription bus services;
(5) Flexible work-hour schedule;
(6) Capital improvement for transit services;
(7) Preferential parking for carpools/vanpools;
(8) Participation in the ride-matching program;
(9) Reduction of parking fees for carpools and vanpools;
(10) Establishment of a transportation coordinator position to implement carpool, vanpool, and transit programs; or
(11) Bicycle parking facilities. (Ord. 2131, 1997).

19.18.115 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 vision plan guidelines as set forth in the comprehensive plan. Expansion of existing commercial buildings and uses are 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 vision 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 in providing improved parking, walkways and access to the business. (Ord. 2575 § 1, 2005).

19.18.120 Number of spaces – Fractions.

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. (Ord. 2131, 1997).

19.18.130 Loading areas.

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other use which requires delivery of merchandise or materials by trucks shall be provided truck loading and unloading berths. The space shall be so situated that no part of a truck or van using the loading space will project into the public right-of-way. Each loading space shall measure not less than 10 feet wide by 30 feet long, with 14-foot height clearance, and shall be made permanently available for such purposes, and shall be surfaced, improved and maintained as required in MMC 19.18.090. Required loading spaces shall be provided in accordance with the following table:

Gross Floor Area	Number of Berths
10,000 – 20,000 sq. ft.	1
20,001 – 50,000 sq. ft.	2
50,001– 100,000 sq. ft.	3
above 100,000 sq. ft.	1 for each additional 50,000 sq. ft.

Every hotel, office building, restaurant, assembly structure or similar use shall provide truck loading and unloading berths according to the following standards:

Aggregate Gross Floor Area	Number of Berths
20,000 – 50,000 sq. ft.	1
50,001 – 100,000 sq. ft.	2
above 100,000 sq. ft.	1 for each additional 50,000 sq. ft.

(Ord. 2131, 1997).

19.18.140 Landscaping requirements for parking areas.

Landscaping requirements for all parking areas are contained within Chapter 19.16 MMC. (Ord. 2131, 1997).

19.18.150 Variance requests to this chapter.

(1) In considering a request for a modification of parking requirements, the hearing examiner shall consider the following factors:

(a) Type of use proposed and traffic generation, including hours of operation, frequency of employee and customer trips, and other specific factors relating to the proposed use;

(b) Location of the subject property, proximity to and availability of public transportation

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facilities, likelihood of customers or employees to use public transportation;

(c) Other information which is relevant and necessary to make a determination as to the validity of the request for modification. Such additional information may include parking studies and traffic surveys for the proposed project vicinity and data concerning the actual parking demand of other similar uses.

(2) In approving a request for the modification of the number of required off-street parking spaces, the hearing examiner may require that a transit stop be located on the subject lot in order to promote use of public transit and to justify a reduction in the required number of parking spaces. (Ord. 2131, 1997).

19.18.160 Spaces required.

The required number of off-street parking spaces shall be in conformance with the following, and where alternative standards prevail, the greater applied in conflicting computations.

LAND USE	MINIMUM REQUIRED SPACES
RESIDENTIAL USES	
Single-family dwellings, duplexes, townhouses, and mobile homes	Two per dwelling; driveways may be counted as one parking space
Accessory dwelling units	One space per dwelling unit
Multiple-family dwellings, one bedroom per unit	One and one-half per dwelling unit
Multiple-family dwellings, two or more bedrooms	One and three-fourths per dwelling unit
Retirement housing and apartments	One per dwelling
Mobile home parks	Two per unit, plus guest parking at one per four lots
Rooming houses, similar uses	One per dwelling
Bed and breakfast accommodations	One space for each room for rent, plus two spaces for the principal residential use
RECREATIONAL/CULTURAL USES	
Movie theaters	One per four seats
Stadiums, sports arenas and similar open assemblies	One per eight seats or one per 100 sq. ft. of assembly space without fixed seats
Dance halls and places of assembly w/o fixed seats	One per 75 sq. ft. of gross floor area
Bowling alleys	Five per lane
Skating rinks	One per 75 sq. ft. of gross floor area
Tennis courts, racquet clubs, handball courts and other similar commercial recreation	One space per 40 sq. ft. of gross floor area used for assembly, plus two per court
Swimming pools (indoor and outdoor)	One per 10 swimmers, based on pool capacity as defined by the Washington State Department of Health
Golf courses	Four spaces for each green, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurants)
Gymnasiums, health clubs	One space per each 200 sq. ft. of gross floor area
Churches, auditoriums and similar enclosed places of assembly	One per four seats or 60 lineal inches of pew or 40 sq. ft. gross floor area used for assembly
Art galleries and museums	One per 250 sq. ft. of gross floor area
COMMERCIAL/OFFICE USES	
Banks, business and professional offices (other than medical and dental) with on-site customer service	One per 400 sq. ft. gross floor area

Retail stores and personal service shops unless otherwise provided herein	If < 5,000 sq. ft. floor area, one per 600 sq. ft. gross floor area; If > 5,000 sq. ft. floor area, eight plus one per each 300 sq. ft. gross floor area
Grocery stores	One space per 200 sq. ft. of customer service area
Barber and beauty shops	One space per 200 sq. ft.
Motor vehicle sales and service	Two per service bay plus one per 1,000 sq. ft. of outdoor display
Motor vehicle or machinery repair, without sales	Two plus two per service bay
Mobile home and recreational vehicle sales	One per 3,000 sq. ft. of outdoor display area
Motels and hotels	One per unit or room
Restaurants, taverns, bars with on-premises consumption	If < 4,000 sq. ft. one per 200 sq. ft. gross floor area; If > 4,000 sq. ft. 20 plus one per 100 sq. ft. gross floor area
Drive-in restaurants and similar establishments, primarily for auto-borne customers	One per 75 sq. ft. of gross floor area. Stacking spaces shall be provided in accordance with MMC 19.18.095, Stacking spaces for drive-through facilities
Shopping centers	If < 15,000 sq. ft.: five spaces per 1,000 sq. ft. of gross floor area; If > than 15,000 sq. ft. of gross floor area: four spaces per 1,000 sq. ft. of gross floor area
Day care centers	One space per staff member, and one space per 10 students. A paved unobstructed pick-up area with adequate stacking spaces (as determined by the planning department) 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	One per four seats or eight feet of bench or pew or one per 40 sq. ft. of assembly room used for services if no fixed seating is provided
Gasoline/service stations w/grocery	One per employee plus one per 200 sq. ft. gross floor area
Adult facilities as defined by MMC 19.06.012	One per 75 sq. ft. of gross floor area or, in the case of an adult drive-in theater, one per viewing space
HEALTH SERVICES USES	
Nursing homes, convalescent homes for aged	One per five beds plus one space per employee and medical staff
Medical and dental clinics	One per 200 sq. ft. gross floor area
Hospitals	One per two beds, excluding bassinets
EDUCATIONAL USES	
Elementary – Jr. high schools (public and private)	Five plus one per each employee and faculty member
Senior high schools (public and private)	One per each 10 students plus one per each employee or faculty member
Commercial/vocational schools	One per each employee plus one per each two students

PUBLIC/GOVERNMENT USES	
Public utility and governmental buildings	One per 400 sq. ft. of gross floor area
Libraries	One per 250 sq. ft. 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 sq. ft. of gross floor area plus one per each two employees on maximum working shift
Warehouses, storage and wholesale businesses	One per each two employees on maximum working shift
Mini self-storage	One per each 50 storage cubicles equally distributed and proximate to storage buildings. In addition, one space for each 50 storage cubicles to be located at the project office

(Ord. 2526 § 12, 2004; Ord. 2298 § 22, 1999; Ord. 2131, 1997).

Chapter 19.20

SIGN CODE

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19.20.010 Purpose.

The purpose of this chapter is to protect the health, safety, property and welfare of the citizens of the city of Marysville by establishing standards for the structural design, placement, size and maintenance of all signs and sign structures in the city. Furthermore, it is the purpose of the regulations, standards and criteria of this chapter to permit and encourage the design of signs which are responsive to the needs of the public in locating a business establishment by identification, address and product and/or services information.

The rapid economic development of the city has resulted in a great increase in the number of businesses located in the city, with marked increase in the number and size of signs related to those businesses. This proliferation of signs has resulted in a reduced effectiveness of individual signs. As the number, size and intensity of signs increase without regard to quality and placement, the impact of the individual sign is diminished.

Lack of control of signs may cause potentially dangerous conflicts between advertising signs and traffic control signs, thus destroying the effectiveness of both. The great increase in automotive traffic experienced within the city has greatly aggravated this chapter.

Furthermore, the uncontrolled use of signs and their shapes, motion, colors, illumination and their insistent and distracting demand for attention can be injurious to property values of both business and residential areas of the city, and may seriously detract from the enjoyment and pleasure of the natural beauty of the city.

It is recognized that businesses have a right to identify themselves and that this contributes to the economic well-being of the community. However, it is felt that this right can be exercised in such a way as to bring benefit to the public without adversely affecting the economic welfare of businesses. The responsible regulation of signs may, in fact, improve business opportunity as a result of the increased attractiveness of the city's environment. (Ord. 2131, 1997).

19.20.020 Signs prohibited.

The following types of signs are prohibited in the city:

(1) Portable readerboard signs;

(2) Signs that create a safety hazard for pedestrians or motorists, as determined by the police chief or city engineer;

(3) Signs located in or on public right-of-way; provided, that awning signs and projecting signs may extend over public right-of-way if they otherwise conform with this chapter; provided further, that certain real estate signs are allowed on the periphery of public right-of-way pursuant to MMC 19.20.150; and provided further, political signs are allowed within the public right-of-way which otherwise comply with MMC 19.20.160;

(4) Signs imitating or resembling official traffic or government signs or signals, as determined by the public works director or police chief;

(5) Signs attached to trees, utility poles, street lights, or any public property without permission of the government agency owning the same;

(6) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. See RCW 46.90.436. (This does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business, or vehicles which are advertising themselves for sale);

(7) Signs over 32 square feet in area which rotate, or have a part or parts in excess of such size which move or revolve;

(8) Displays of banners, clusters of flags, posters, pennants, ribbons, streamers, strings of lights, spinners, twirlers or propellers, flashing, rotating

or blinking lights, flares, balloons or inflated signs over 24 inches in diameter, and similar devices of a carnival nature; provided, that certain signs and devices of this nature are permitted on a limited basis pursuant to MMC 19.20.180;

(9) Searchlights and beacons, except as permitted for special events pursuant to MMC 19.20.180. (Ord. 2131, 1997).

19.20.030 Signs exempt from this chapter.

The following signs or displays are exempted from regulation under this chapter:

(1) Regulatory, informational, identification or directional signs installed by, or at the direction of, a government entity;

(2) Signs required by law;

(3) Official public notices, official court notices or official sheriff's notices;

(4) One off-premises identification sign at each entry to the city, not exceeding three square feet per face, for any fraternal, civic or religious organization with an established operation in the city;

(5) Signs or displays not visible from streets, ways, sidewalks or parking areas open to the public;

(6) The flag of government or noncommercial institutions such as schools;

(7) Point-of-purchase advertising displays, such as product dispensers;

(8) "No trespassing," "no dumping," "no parking," "private" and other informational warning signs which shall not exceed six square feet in surface area;

(9) Structures intended for separate use such as phone booths and recycling containers;

(10) Reasonable seasonal decorations within the appropriate public holiday season, or civic festival season. Such displays shall be removed promptly at the end of the season;

(11) Sculptures, fountains, mosaics, murals and design features which do not incorporate advertising or identification;

(12) Postal signs;

(13) Incidental signs;

(14) All signs which are wholly within the interior portion of a building, including interior window signs; provided, that such signs shall not be exempt if they are in one of the categories prohibited by MMC 19.20.020. (Ord. 2131, 1997).

19.20.040 Permits required.

No sign, except for those exempted in this chapter, shall be erected, re-erected, attached, structurally altered or relocated by any person, firm or corporation without a sign permit issued by the city. In the case of electric signs, compliance with the National Electrical Code shall be included as a requirement of the sign permit. All sign permits shall be issued by the building official. No permit shall be required for repair, cleaning, repainting or other normal maintenance, nor for changing the message on a sign designed for changeable copy, as long as the sign structure is not modified in any way. (Ord. 2131, 1997).

19.20.050 Signs not requiring permits.

The following types of signs are exempted from obtaining a sign permit, but must be in conformance with all other requirements of this chapter:

(1) Real estate signs meeting the requirements of MMC 19.20.150(1), (2) or (3);

(2) Political signs meeting the requirements of MMC 19.20.160;

(3) Temporary and special event signs meeting the requirements of MMC 19.20.180;

(4) 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 residential zones;

(5) On-premises directional signs, not exceeding six square feet per face, the sole purpose of which is to provide for vehicular and pedestrian traffic direction;

(6) Up to two on-premises permanent readerboard signs not more than 16 square feet per face, for each charitable or religious organization. (Ord. 2131, 1997).

19.20.060 Application for permits.

Applications for sign permits shall be made to the building official upon forms provided by the city. Such applications shall require:

(1) Name and address of the owner of the sign;

(2) Street address or location of the property on which the sign is to be located, together with the name and address of the property owner;

(3) The type of sign or sign structure as defined in this title;

(4) A site plan showing the proposed location of the sign, together with the locations and square footage areas of all existing signs on the same premises;

(5) Specifications and scale drawings showing the materials, design, dimensions, structural supports and electrical components of the proposed sign. (Ord. 2131, 1997).

19.20.070 Permit fees.

All applications for permits shall be accompanied by payment of fees based upon the following schedule:

(1) On-premises signs, $15.00 plus $1.00 for each square foot of sign area;

(2) Billboards, $1.00 for each square foot of sign area;

(3) If any sign is installed or placed on any property prior to receipt of a permit, the permit fee shall be doubled. (Ord. 2131, 1997).

19.20.080 Issuance of permits – Inspection.

The building official shall issue a permit for erection, alteration or relocation of a sign within 30 days of receipt of a valid application; provided, that the sign complies with all applicable laws and regulations of the city. In all applications, where a matter of interpretation arises, the more specific definition or higher standard shall prevail. The building official may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application. If a permit is denied, the permit fee will be refunded to the applicant. A permit issued by the building official becomes null and void if work is not commenced within 60 days of issuance and is not completed within 180 days of issuance. Permits may be renewed one time with an additional payment of one-half of the original fee.

Any person installing, altering or relocating a sign for which a permit has been issued shall notify the building official upon completion of the work. No sign shall be deemed approved until the building official has conducted a final inspection and indicated his approval on the face of the sign permit. (Ord. 2131, 1997).

19.20.090 Maintenance.

All signs and components thereof must be maintained in good repair and in a safe condition. (Ord. 2131, 1997).

19.20.100 Abandoned signs.

Abandoned signs shall be removed by the property owner or lessee within 60 days after the business or service advertised by the sign is no longer conducted on the premises. If the property owner or lessee fails to remove it, the building official shall give the owner 10 days written notice to remove it. Upon failure to comply with this notice, the building official may remove the sign at cost to the owner of the premises. The foundations and posts of a sign, with all advertising copy removed, may remain on the premises for up to three years with the owner's written consent, on the condition that the same must be continuously maintained pursuant to MMC 19.20.090. (Ord. 2131, 1997).

19.20.110 Illumination of signs.

The light directed upon, or internal to, any sign shall be shaded, shielded or directed so that the light intensity or brightness shall not adversely affect surrounding or facing premises, or adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas, or adversely affect safe vision of pedestrians on a public right-of-way. Light shall not shine on, nor directly reflect into, residential structures. No signs shall have blinking, flashing or fluttering lights, or other illumination devices which have a changing light intensity or brightness, or which are so constructed and operated as to create an appearance or illusion of writing or printing in motion; provided, that certain illumination of this description is permitted on a limited basis by MMC 19.20.180. (Ord. 2131, 1997).

19.20.120 Height of signs.

No sign in a residential district shall extend more than 10 feet above the average elevation of the lot. No sign in any business, commercial or industrial district shall extend more than 30 feet above the average elevation of the lot, with exception of billboards which are regulated by MMC 19.20.190(2). (Ord. 2131, 1997).

19.20.130 Design and construction specifications.

Reserved. (Ord. 2131, 1997).

19.20.140 On-premises requirement.

All signs, except billboards, real estate, political and directional signs meeting the requirements of this chapter, shall be located on the premises of the business being advertised; provided, that several businesses located contiguous to each other, but not sharing a common property ownership, may choose to share a freestanding sign located on the property to one of the businesses. (Ord. 2131, 1997).

19.20.150 Real estate signs.

All exterior real estate signs must be of a durable material. Only the following real estate signs are permitted:

(1) Residential For Sale or Rent Signs. Signs advertising residential property for sale or rent shall be limited to one single-faced or double-faced sign per street frontage. Such signs shall not exceed four square feet per face, and must be

placed wholly on the subject property. Such signs may remain up for one year or until the property is sold or rented, whichever occurs first. A sold sign may remain up for 10 days after the occupancy of residential property.

(2) Residential Directional Signs. Signs advertising open house and the direction to a residence for sale or rent shall be limited to three single-faced or double-faced off-premises signs. Such signs may not exceed four square feet per face. Such signs are permitted only when a real estate agent or seller is in attendance at the property for sale, and not overnight. Such signs may be placed along the periphery of public right-of-way, but shall not be placed on a sidewalk or in any location where they would cause a public hazard as determined by the police chief and/or building official.

(3) Commercial or Industrial For Sale or Rent Signs. Signs advertising commercial or industrial property for sale or rent shall be limited to one single-faced or double-faced sign per street frontage. Signs may be displayed while the property is actually for sale or rent. The signs shall not exceed 32 square feet per face. If freestanding, the signs shall not exceed five feet in height and shall be located at least 15 feet from any abutting interior property line and wholly on the property for sale or rent.

(4) Subdivision Signs. Signs advertising residential subdivisions shall be limited to one single-faced or double-faced sign per street frontage. Such signs shall not exceed 32 square feet per face and shall not exceed 12 feet in height. They shall be set back at least 10 feet from any abutting interior property line and shall be wholly on the property being subdivided and sold. (Ord. 2131, 1997).

19.20.160 Political signs.

Signs, posters or bills promoting or publicizing candidates for public office or issues that are to be voted upon in a primary, general or special election may be displayed in accordance with the following restrictions:

(1) Time Limitations. Political signs shall be removed within seven days following an election.

(2) Prohibited on Public Property. It is unlawful for any person to paste, paint, affix or fasten any political sign on a utility pole or on any public building or structure. No political sign placed within the public right-of-way shall create a safety hazard for pedestrians or motorists as determined by the chief of police or city engineer.

(3) Responsibility for Compliance. It shall be presumed that any violation of this section was done at the direction and request of the political candidate and/or campaign director. (Ord. 2131, 1997).

19.20.170 Portable signs.

The following regulations shall apply to all portable signs except in cases where such signs are also included in more specific categories of this chapter:

(1) Portable signs shall not exceed eight square feet per side.

(2) No more than one portable sign may be displayed per street frontage.

(3) All portable signs shall be located on the premises which they are advertising.

(4) Portable signs shall be nonelectric.

(5) Portable signs shall not be readerboards. (Ord. 2131, 1997).

19.20.180 Temporary and special event signs.

Except as otherwise provided below for certain special categories, temporary and special event signs shall not exceed 32 square feet in area per face, and shall not be displayed longer than 30 days per calendar year.

(1) Construction Signs. Construction signs identify the architects, engineers, contractors or other individuals or firm involved with the construction of a building and announce the character of the building or the purpose for which the building is intended. Such signs may be displayed only after a building permit is obtained and during the period of construction on the construction site. Only one such sign is permitted per street frontage. No construction sign shall exceed 32 square feet per face or 12 feet in height, nor shall it be located closer than 10 feet from an interior property line. Construction signs shall be removed by the date of first occupancy of the premises, or upon expiration of the building permit, whichever first occurs.

(2) Grand Opening Displays. Temporary signs, posters, banners, strings of lights, clusters of flags, blinking lights, balloons, searchlights and beacons are permitted for a period not to exceed 60 days per calendar year to announce the opening of a completely new enterprise or the opening of an enterprise under new ownership. All such signs and materials shall be located on the premises being advertised, and shall be completely removed immediately upon expiration of said 60-day period.

(3) Special Sales and Events. Temporary signs, posters, banners, strings of lights, clusters of flags, balloons, searchlights and beacons are permitted for the limited purpose of announcing a retail sale or special event in business or commercial zones, but not on a routine basis. All such advertising

material shall be located on the premises being advertised and shall be removed immediately upon expiration of said special sale or event.

(4) Quitting Business Sales. Temporary signs, posters and banners are permitted for a period of 90 continuous days for the purpose of advertising quitting business sales, liquidation sales, or other events of a similar nature which are authorized pursuant to Chapter 5.52 MMC. All such signs shall be located on the premises being advertised and shall be removed immediately upon expiration of the 90-day period, or conclusion of the sale, whichever occurs first. (Ord. 2131, 1997).

19.20.190 Billboards.

(1) Permitted Zones. Billboards shall be permitted only in those zones specified for said use in MMC 19.08.060(A).

(2) Height. The maximum height of a billboard shall not exceed 35 feet from the ground level at its base.

(3) Size. The maximum sign dimensions for a billboard shall be 12 feet in height and 25 feet in length, excluding supports and foundations, for a total maximum sign area of 300 square feet per face. Billboards may be either single-faced or double-faced.

(4) Location Restrictions.

(a) Billboards shall only be located on property abutting State Avenue, and shall be oriented towards State Avenue.

(b) Billboards shall not be less than 100 feet from an intersection; provided, that a greater distance may be required if the city finds that a specific billboard at a specific location will obstruct or physically interfere with a motorist's view of approaching, merging or intersection traffic.

(c) Billboards shall not be located on a railroad right-of-way.

(d) Billboards shall not be less than 100 feet from any residential zone.

(e) Billboards shall not be less than 15 feet from the outside edge of the public right-of-way.

(f) A billboard shall not be located within 1,000 feet of another billboard on the same side of the street. Back-to-back and v-type sign structures shall be considered one sign structure.

(g) Billboards shall not be permitted as roof signs.

(h) Billboards shall not block the public visibility of any on-premises signs or the visibility for motorists of any official traffic sign, signal or device.

(i) Billboards shall not block, obstruct or detract from any unique scenic views enjoyed by the public or by private parties, as determined by the city council.

(5) Lighting. Lighting on billboards shall be for the sole purpose of illuminating the advertising message on the display surface, and shall not constitute any part of the message itself, directly or indirectly. There shall be no blinking, flashing or fluttering lights. All lighting shall be directed towards the display surface and shall not create a hazard to motorists or a nuisance to adjoining property owners.

(6) State Requirements. All billboards visible from Interstate 5 shall comply with the requirements of Chapter 47.42 RCW.

(7) Business License. A business license as specified in Chapter 5.02 MMC shall be required for each business owning one or more billboards which are erected in the city.

(8) Nonconforming Billboards. Billboards existing on January 1, 1981, which were in full compliance with all codes and regulations of the city at said time, but which do not comply with this chapter, shall be regarded as nonconforming billboards. Said billboards shall be allowed to continue if properly repaired and maintained. If such billboards are structurally altered, relocated or replaced, they shall lose their nonconforming status; further, such billboards shall lose their nonconforming status if a change of use occurs on the underlying property. A billboard without nonconforming status shall immediately be removed or brought into compliance with all current provisions of this chapter. (Ord. 2131, 1997).

19.20.200 Sign regulations by zoning district.

In addition to all other provisions of this chapter, the following special regulations shall apply in each of the zoning districts referred to below:

(1) Residential Districts.

(a) The total combined area of all nonexempt signs on any lot in a residential district shall not exceed nine square feet, except as provided in subsections (1)(g) through (1)(j) of this section.

(b) All dwelling units in residential districts shall display house numbers readable from the street.

(c) Illumination from or upon signs in residential districts shall be shaded, shielded, directed or reduced so that the light intensity or brightness does not affect the enjoyment of residential property in the vicinity in any substantial way.

(d) There shall be no freestanding pole signs in residential districts.

(e) There shall be no roof signs in residential districts.

(f) No permanent sign shall be located closer than 10 feet to an internal property line, or closer than 10 feet from the front lot line unless attached to a fence. Signs which are attached to fences shall not extend higher than the fence. A variance from this provision may be applied administratively, only in cases where the sign is a permanent ground sign. In such cases, the city engineer shall review the variance application to determine whether said sign creates sight distance obstructions or any other safety hazard. The recommendation of the city engineer shall be given substantial weight.

(g) Each entrance to a subdivision or multiple-family development may have an identification sign up to 32 square feet in area, per face, or two single-faced signs of not more than 15 square feet each.

(h) Home occupation and day care signs shall not exceed three square feet per face and shall be wall signs or ground signs.

(i) Signs for conditional uses permitted in residential districts shall be approved as part of the applicable conditional use permit, and shall not be otherwise restricted by the provisions of this section.

(j) Temporary sale signs (garage sale, estate sale, etc.) may be displayed no more than three days prior to the event and shall be removed 24 hours after the event is completed. There shall be no more than two such events advertised for any residence per year, and no such event shall continue for more than six days within a 15-day period.

(2) Mobile/Manufactured Home Parks. Signs and advertising devices shall be prohibited in a mobile/manufactured home park except:

(a) One identifying sign up to 15 square feet in area per face at each entrance to the park, which may be illuminated, but not flashing.

(b) Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.

(c) Real estate for sale or rent signs pursuant to MMC 19.20.150(1).

(3) Business, Commercial and Industrial Zones.

(a) General Requirements.

(i) Freestanding signs shall not exceed 75 feet in area per face, and shall not be closer than 100 feet to another freestanding sign on the same property. The base of such a sign shall be set back from the property line at least 10 feet.

(ii) Roof signs shall be permitted in any business, commercial, or industrial zone if the height of the sign does not extend above a necessary structural feature of the building; provided, that roof signs in the area zoned in the freeway service classification west of the railroad tracks may extend five feet above the ridge line of the roof.

(iii) Ground signs shall be set back a minimum of 10 feet from the property line.

(iv) Gasoline price signs shall be located no closer than 10 feet from the front property line and must be permanently anchored. Such signs may be freestanding or attached to canopy columns, and shall not be portable. The sign area shall not exceed 12 square feet and no more than one such sign for each street frontage is permitted. Gasoline price signs complying with this section shall not be included in determining the total sign area of a business.

(v) Each business building shall display a street address number identification sign readable from the street.

(vi) Projecting signs shall not project more than six feet from a building nor within two feet of the curb line, and shall not exceed 32 square feet per face.

(b) Single Occupancy Buildings. Freestanding, pole, ground, and monument signs, and temporary or portable signs which are not attached to structures, shall comply with the following requirements for maximum total sign area:

(i) Thirty-two square feet, counting only one side of double-faced signs; or

(ii) One square foot of street frontage thereafter, not to exceed 200 square feet of sign area per street frontage. No single sign face shall exceed 75 square feet.

(c) Multiple Occupancy Complexes. Each business in a multiple occupancy complex shall be permitted a wall sign not to exceed one and one-half square foot per lineal foot of wall frontage or 80 percent of the lineal frontage of the business with a minimum of 32 square feet per tenant; and if the complex has a marquee, each business shall be permitted one under-marquee sign not to exceed eight square feet in size and maintaining a vertical clearance of eight feet above the sidewalk. Subject to the general requirements for freestanding signs, buildings located along the street frontage shall be allowed one secondary ground sign. Multiple occupancy complexes shall be allowed one freestanding sign per access driveway for the complex; said signs may be one square foot in size for each lineal foot of street frontage for the first 100 feet, and one-half square foot for each lineal foot thereafter, not to exceed a total of 200 square feet of sign area per street frontage. No single sign face shall exceed 75 square feet.

(d) Pole signs are not permitted in the community business and general commercial zones along 88th Street NE and 116th Street NE, between I-5 and State Avenue NE. Pole signs are not permitted in the mixed use or neighborhood business zones. (Ord. 2421 § 1, 2002; Ord. 2151 § 14, 1997; Ord. 2131, 1997).

19.20.210 Nonconforming signs.

(1) Signs existing on or before July 1, 1988, which do not conform to the specific provisions of this chapter, shall be deemed to be legal nonconforming signs which are exempt from the provisions of this chapter only on the following conditions:

(a) The sign was lawfully erected in full compliance with all codes which were then applicable.

(b) The sign does not endanger the public health, safety or welfare.

(c) The sign does not lose its nonconforming status as provided in subsection (2) of this section; provided, that nonconforming status shall not apply to temporary, special event, real estate or portable signs, or to any sign on public right-of-way. The nonconforming status of billboards is regulated by MMC 19.20.190(8); provided further, that portable readerboard signs which meet the nonconforming criteria specified in subsection (1) of this section shall be granted a phase-out period of 12 months from July 1, 1988, or until they lose their nonconforming status as provided in subsection (2) of this section, whichever occurs first.

(2) A legal nonconforming sign may lose said designation if any of the following occur:

(a) If the sign is not continuously maintained and repaired as required by MMC 19.20.090.

(b) If the sign structure is relocated or replaced (not to include a mere change of advertising copy).

(c) If the structure or size of the sign is altered in any way to make it more nonconforming with the provisions of this chapter. This does not refer to a change of copy or normal maintenance.

(d) If the sign suffers more than 50 percent appraised damage or deterioration.

(3) No sign permit shall be issued for property which displays any nonconforming signs if the result of said permit is to make the property more nonconforming in any way. (Ord. 2131, 1997).

19.20.220 Comprehensive design plan permits.

(1) Application may be made to the city planner for special consideration whereby deviations from the requirements and restrictions of this chapter may be permitted when an applicant is using a comprehensive design plan to integrate signs into the framework of a building or buildings, landscape and other design features of the property, utilizing an overall design theme. A comprehensive design plan permit may only be applied for in the following circumstances:

(a) Where the facade of an existing building is being altered;

(b) For new construction, where the applicant can show by clear and convincing evidence that the design plan meets all of the criteria stated below;

(c) Where an applicant can show by clear and convincing evidence that a freestanding sign meets all of the criteria stated below.

(2) The city shall assess the applicant's design proposal using the following criteria:

(a) Whether the proposal manifests exceptional visual harmony between the sign, buildings and other components of the subject property through the use of a consistent design theme;

(b) Whether the sign or signs promote the planned land use in the area of the subject property and enhance the aesthetics of the surrounding area;

(c) Whether the sign and its placement obstructs or interferes with any other signs or property in the area or obstructs natural scenic views; and

(d) Whether the proposed plan is aesthetically superior to what could be installed under existing criteria in this chapter.

(3) Comprehensive design plan permits are not to be confused with the procedures for obtaining variances for hardship or unusual circumstances. A comprehensive design plan permit shall not be allowed for the relaxation of any setback, size or dimensional requirement, or any of the other sign regulations set forth in MMC 19.20.200 without a specific finding that the proposal meets all of the criteria set forth in subsections (2)(a) through (d) of this section.

(4) Any decision of the city planner may be appealed to the city hearing examiner pursuant to the procedures set forth in Chapter 2.70 MMC, and the city hearing examiner is hereby authorized to hear such appeals and make recommendations to the city council. (Ord. 2131, 1997).

19.20.230 Variances.

Any person may apply to the city hearing examiner for a variance from the requirements of this chapter. The city hearing examiner is hereby authorized to hear such variances pursuant to the procedure set forth in Chapter 2.70 MMC. Except

as otherwise provided in Chapter 2.70 MMC, variance applications shall be processed pursuant to the review procedures outlined in MMC Title 15. No application for a variance shall be granted unless the following findings can be made:

(1) The variance shall not constitute a grant of special privilege inconsistent with limitations in this chapter on the types of signs allowed in the same vicinity and zone; that is, there shall be no use variances which allow types of signs in any zone which would be otherwise prohibited; and

(2) The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the same vicinity and zone; and

(3) The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity; and

(4) The variance will not be contrary to the spirit and purpose of this chapter.

In granting a variance, the hearing examiner and city council may attach thereto such conditions regarding the location, character and other features of the proposed sign as it may deem necessary to carry out the spirit and purpose of this chapter in the public interest. (Ord. 2131, 1997).

Chapter 19.22

PROCEDURES AND POLICIES FOR IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

Sections:

19.22.010 Authority.
19.22.020 General requirements.
19.22.030 Categorical exemptions and threshold determinations.
19.22.040 Environmental impact statement (EIS).
19.22.050 Public notice and commenting.
19.22.060 Using existing environmental documents.
19.22.070 SEPA decisions and appeals.
19.22.080 Definitions.
19.22.090 Categorical exemptions.
19.22.100 Rules to be followed by the city – Fee schedule.
19.22.110 Forms.

19.22.010 Authority.

The city of Marysville adopts this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904.

This chapter contains the city's SEPA procedures. The city's substantive policies for protecting the environment are found in other chapters of the Marysville Municipal Code, and are incorporated herein by and through MMC 19.22.070.

The SEPA rules, Chapter 197-11 WAC, and the Model SEPA Ordinance, Chapter 173-806 WAC, must be used in conjunction with this chapter. The authority to incorporate said codes, or sections thereof, by reference is found in RCW 43.21C.135. Three copies of any sections of state codes so incorporated are on file with the city clerk for public use and examination. (Ord. 2131, 1997).

19.22.020 General requirements.

The city adopts the following sections of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-020;

(2) WAC 173-806-030;

(3) WAC 173-806-040; provided, that subsection (1) thereof shall be amended to read as follows:

> For those proposals for which the city is the lead agency, the responsible official shall be the city planning director or such

other person as the mayor may designate in writing.

(4) WAC 173-806-050;
(5) WAC 173-806-053;
(6) WAC 173-806-055;
(7) WAC 173-806-058; provided, that subsection (1) thereof shall be amended to read as follows:

For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the city's staff recommendation to any appropriate advisory body, such as the hearing examiner.

(Ord. 2131, 1997).

19.22.030 Categorical exemptions and threshold determinations.

The city adopts the following sections of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:
(1) WAC 173-806-065;
(2) WAC 173-806-070; provided, that subsection (1) thereof shall be amended to read as follows:

The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

(a) For residential dwelling units in WAC 197-11-800(1)(b)(i): up to 9 dwelling units, provided that the project site is served by public water and sanitary sewer.

(b) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to 12,000 square feet and up to 40 parking spaces, provided that the project site is:

(i) Zoned for business, commercial or industrial use; and

(ii) Designated for business, commercial or industrial use by the Comprehensive Plan; and

(iii) Served by public water and sanitary sewer.

(c) For parking lots in WAC 197-11-800 (1)(b)(iv): up to 40 parking spaces.

(d) For landfills and excavations in WAC 197-11-800(1)(b)(v): up to 500 cubic yards.

(3) WAC 173-806-080;
(4) WAC 173-806-090; provided, that subsection (1) shall use option 1 stated therein;
(5) WAC 173-806-100. (Ord. 2526 § 13, 2004; Ord. 2427 § 1, 2002; Ord. 2131, 1997).

19.22.040 Environmental impact statement (EIS).

The city adopts the following sections of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full;
(1) WAC 173-806-110;
(2) WAC 173-806-120;
(3) WAC 173-806-125. (Ord. 2131, 1997).

19.22.050 Public notice and commenting.

The city adopts the following sections of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:
(1) WAC 173-806-128;
(2) WAC 173-806-130; provided, that subsection (1)(b) thereof shall be amended to read as follows:

If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS by:

(i) Posting notice in City Hall and in the United States Post Office; and

(ii) Submitting the notice to the SEPA register if required by WAC 197-11-508; and

(iii) Using such other method of public notice as is deemed necessary and appropriate by the responsible official, if any.

Provided further, that subsection (2) thereof shall be amended to read as follows:

Whenever the city issues a DEIS under WAC 197-11-455 (5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(a) Indicating the availability of the DEIS and any public notice required for a nonexempt license; and

(b) Posting the property for site-specific proposals; and

(c) Posting notice in City Hall and in the United States Post Office; and

(d) Submitting the notice to the SEPA register; and

(e) Using such other method of public notice as is deemed necessary and appropriate by the responsible official, if any.

(3) WAC 173-806-140; provided, that such section shall be completed by designating the responsible official as the person referred to therein. (Ord. 2131, 1997).

19.22.060 Using existing environmental documents.

The city adopts the following section of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-150. (Ord. 2131, 1997).

19.22.070 SEPA decisions and appeals.

The city adopts the following sections of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-155;

(2) WAC 173-806-160; provided, that subsection (c) thereof shall be amended to read as follows:

The city adopts by reference the policies in the following city codes, plans, policies and agreements, as now existing or hereafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals:

(a) Chapter 6.76 MMC, Noise Regulations;

(b) MMC Title 7, Health and Sanitation;

(c) Chapter 9.04 MMC, Fire Code;

(d) Chapter 11.56 MMC, Fire Zones;

(e) Chapter 11.62 MMC, Truck Routes;

(f) MMC 12.02.170, Curbs, gutters and sidewalks required;

(g) MMC 12.02.180, Minimum access requirements;

(h) MMC 12.02.190, Dedication of road right-of-way – Required setbacks;

(i) Chapter 12.06 MMC, Classification of Streets;

(j) Six-Year Transportation Improvement Program;

(k) Chapter 14.01 MMC, General Requirements for Utility Service;

(l) Chapter 14.15 MMC, On-Site Stormwater Drainage Code;

(m) Chapter 14.16 MMC, Public Storm Drainage System Code;

(n) Chapter 14.18 MMC, Stormwater Drainage Assessments in Certain Designated Drainage Basins;

(o) Chapter 14.32 MMC, Rural Utility Service Area, including the RUSA Plan;

(p) MMC Title 16, Building Codes, Sign Code, and Flood Plain Management;

(q) Chapter 18.08 MMC, Comprehensive Plan;

(r) Chapter 18.16 MMC, Shoreline Management Master Program, and Streamside Protection Zone;

(s) Chapter 18.24 MMC, Mitigation of Impacts Resulting from Development Proposals;

(t) MMC Title 19, Zoning;

(u) MMC Title 20: Subdivisions;

(v) All transportation improvement programs adopted by the city council pursuant to Chapter 39.92 RCW;

(w) All capital facilities projects contained within the Marysville Comprehensive Plan;

(x) Interlocal Agreement Between Snohomish County and the City of Marysville on Recriprocal Mitigation of Transportation Impacts;

(y) Interlocal Agreement Between the City of Marysville and Snohomish County Concerning Annexation and Urban Development Within the Marysville Urban Growth Area;

(z) The formally designated SEPA policies of other affected agencies or jurisdictions when there is an agreement with the affected agency or jurisdiction which specifically addresses impact identification, documentation, and mitigation and which references the environmental policies formally designated by the agency or jurisdiction for the exercise of SEPA authority.

(3) Appeals.

(a) Any agency or aggrieved person may appeal the procedures or substance of an environmental determination of the responsible official under SEPA as follows:

(i) A DNS. Written notice of such an appeal shall be filed with the responsible official within 15 days after the date of issuance of the DNS. The appeal hearing shall be consolidated with the hearing(s) on the merits of the governmental action for which the environmental determination was made.

(ii) A DS. Written notice of the appeal shall be filed with the responsible official within 15 days after the date of issuance of the DS. The appeal shall be heard by the city council within 30 days thereafter.

(iii) The Adequacy of an EIS. Written notice of appeal shall be filed with the responsible official within 15 days after the issuance of the final EIS. The appeal hearing shall be consolidated with the hearing(s) on the merits of the governmental action for which the EIS was issued.

(iv) Appeals of intermediate steps in the SEPA process shall not be allowed.

(v) For any appeal under this section, the city shall provide for a record that shall consist of the following:

(A) Findings and conclusions;

(B) Testimony under oath; and

(C) A taped or written transcript.

(vi) Determination by the responsible official shall carry substantial weight in any appeal proceeding.

(b) The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

(c) No agency or person may seek judicial review of environmental determinations made pursuant to SEPA unless such agency or person has first appealed such environmental determinations using the administrative procedure set forth above.

(4) WAC 173-806-173. (Ord. 2274 § 1, 1999; Ord. 2131, 1997).

19.22.080 Definitions.

The city adopts the following section of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-175. (Ord. 2131, 1997).

19.22.090 Categorical exemptions.

The city adopts the following section of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-190. (Ord. 2131, 1997).

19.22.100 Rules to be followed by the city – Fee schedule.

The city adopts the following sections of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-195.

(2) WAC 173-806-190; provided, that subsection (1) thereof shall be amended to read as follows:

All areas designated on the city's shoreline environment designation map (see MMC 18.16.020), areas designated as being within the streamside protection zone (see MMC 18.16.275), and areas regulated under Chapter 19.24 MMC are "environmentally sensitive areas" as referred to in WAC 173-806-190. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for that area are: (1)(b); (2)(d) and (g); (24)(b), (d) and (f); (25)(h). Unidentified exemptions shall continue to apply within environmentally sensitive areas for the city.

(3) WAC 173-806-200; provided, that subsection (1) thereof shall be amended to read as follows:

> Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee as set out in Chapter 19.60 MMC from the proponent of the proposal prior to undertaking the threshold determination. When the city completes the environmental checklist of the applicant's request or under WAC 173-806-090(3) of this chapter, an additional $100.00 shall be collected.

(4) WAC 173-806-220. (Ord. 2131, 1997).

19.22.110 Forms.

The city adopts the following section of the Model SEPA Ordinance, as now existing or hereafter amended, by reference, and incorporates the same into this chapter as though set forth in full:

(1) WAC 173-806-230. (Ord. 2131, 1997).

Chapter 19.24

CRITICAL AREAS MANAGEMENT

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Article I. General Introduction

19.24.010 General purpose and intent.

(1) The city of Marysville finds that critical areas perform many important biological and physical functions that benefit the city of Marysville and its residents, with the exception of geologic hazard areas which may pose a threat to human safety or to public and private property. Specifically, the functions they perform include but are not limited to the following by type:

(a) Wetlands. Helping to maintain water quality; storing and conveying stormwater and floodwater; recharging groundwater; providing important fish and wildlife habitat; and serving as areas for recreation, education and scientific study and aesthetic appreciation; and

(b) Fish and Wildlife Habitat Areas. Maintaining species diversity and genetic diversity; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, education, and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas.

In addition, certain portions of the city of Marysville are characterized by geologic hazards that pose a risk to public and private property, to human life and safety and to the natural systems that make up the environment of the city of Marysville. These lands are affected by natural processes that make them susceptible to landslides, seismic activity and severe erosion. Protection of critical areas and regulation of geologic hazards are, therefore, necessary to protect the public health, safety and general welfare.

(2) These regulations of the city of Marysville critical areas ordinance contain standards, guidelines, criteria and requirements intended to identify, analyze and mitigate potential impacts to the city of Marysville's critical areas and to enhance and restore them where possible. The intent of these regulations is to avoid impacts where such avoidance is feasible and reasonable. In appropriate circumstances, impacts to critical areas resulting from regulated activities may be minimized, rectified, reduced or compensated for, consistent with the requirements of these regulations. The city of Marysville's overall goal shall be to protect the functions and values of critical areas and protect the people, public and private property, and natural ecosystems.

(3) It is the further intent of these regulations to:

(a) Implement the goals and policies of the city of Marysville comprehensive plan, including those pertaining to natural features and environmental protection; aesthetics and community character; providing adequate housing and infrastructure; providing opportunities for economic development; creating a balanced transportation system; ensuring adequate public facilities; and achieving a mix of land use types and densities consistent with the city of Marysville's land use plan;

(b) Serve as a basis for exercise of the city of Marysville's substantive authority under the State Environmental Policy Act (SEPA) and the city of Marysville's SEPA rules;

(c) Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and its implementing rules; and through the application of the best available science, in accordance with WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals;

(d) Coordinate environmental review and permitting of proposals to avoid duplication and delay.

(4) The city of Marysville further finds that Snohomish County has identified and mapped some portions of the city of Marysville based on topographic, geologic, hydrologic, and habitat characteristics where the conditions indicate that critical areas are believed to exist. There is, however, a need for additional study and mapping to verify that such conditions do, in fact, prevail and to identify other areas that are potentially geologic hazards. Such mapping will enable the city of Marysville to provide notice to the public of the potential presence of critical areas or the risks associated with developing lands subject to geologic hazards. However, the boundaries of the critical areas and geologic hazard areas displayed on these maps are approximate and are not intended to be used for individual site assessment. Where differences occur between what is illustrated on these maps and site conditions, the actual presence or absence of environmentally critical areas or geologic hazard areas on the site shall control. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.020 General applicability of these regulations.

(1) The provisions of these regulations shall apply to any activity that potentially affects critical areas or their established buffers unless otherwise exempt. Any action taken pursuant to this title shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science and as provided in Chapter 19.24 MMC. All actions and developments shall be designed and constructed in accordance with the priority sequencing outlined in MMC 19.24.120 and 19.24.240 to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions and values of critical areas unless otherwise permitted by a reasonable use determination under MMC 19.24.420.

(2) To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of these regulations: clearing and grading; subdivision or short subdivision; building permit; planned unit development; shoreline substantial development; variance; conditional use permit; other permits leading to the development or alteration of land; and rezones and other nonproject actions if not combined with another development permit. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.030 General relationship of regulation of one type of critical area protection to other regulations.

These regulations shall apply as an overlay and in addition to zoning, land use and other regulations, including critical areas regulations, established by the city of Marysville.

(1) Areas characterized as a critical area may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some critical areas. For example, some landslide hazard areas (e.g., steep slopes) adjacent to wetlands may be regulated by buffering requirements according to the wetland management provisions of this chapter. Also, wetlands, for example, may be defined and regulated according to the wetland and habitat management provisions of this chapter. In the event of any conflict between regulations for particular critical areas in this chapter, those regulations which provide greater protection to environmentally critical areas shall apply.

(2) These critical area regulations shall apply as an overlay and in addition to zoning, land use, and other regulations established by the city of Marysville. In the event of any conflict between these regulations and any other regulations of the city of Marysville, the regulations which provide greater protection to environmentally critical areas shall apply.

(3) Compliance with the provisions of this title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements, apart from the process established in this title. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.040 Best available science.

(1) Criteria for Best Available Science. The best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925, as amended.

(2) Protection of Functions and Value and Fish Usage. Critical area studies and decisions to alter critical areas shall rely on the best available science

to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat, such as salmon and bull trout.

(3) Lack of Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function or permitting an alteration of or impact to the critical area, the city shall:

(a) Take a "precautionary or no-risk approach" that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and

(b) Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberative scientific approach to taking action and obtaining information in the face of uncertainty. To effectively implement an adaptive management program, the city hereby commits to:

(i) Address funding for the research component of the adaptive management program;

(ii) Change course based on the results and interpretation of new information that resolves uncertainties; and

(iii) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

Article II. Wetlands

19.24.050 Applicability to wetlands.

(1) See MMC 19.24.020 for general applicability.

(2) Nonproject actions such as rezones shall be required to perform a wetland determination as defined by these regulations. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.060 Wetland rating and classification.

(1) Classification. Wetlands shall be classified as Category I, II, III, or IV using the Washington State Department of Ecology's Wetland Rating System for Western Washington, Publication No. 04-06-025, or as amended hereafter. Wetland delineations shall be determined by using the Washington State Wetlands Identification and Delineation Manual, March 1997, or as amended hereafter.

(2) Sources used to identify designated wetlands include, but are not limited to:

(a) United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.

(b) Areas identified as hydric soils, soils with significant soil inclusions and "wet spots" with the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.

(c) Washington State Department of Natural Resources, Geographic Information System, Hydrography and Soils Survey Layers.

(d) City of Marysville Critical Areas Inventory Maps. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.070 Regulated activities in wetlands.

The following activities within a wetland and its associated buffer, or outside a wetland or buffer but potentially affecting the wetland or buffer, shall be regulated pursuant to the standards of this chapter:

(1) Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

(2) Dumping, discharging or filling with any material;

(3) Draining, flooding or disturbing the water level or water table;

(4) Driving pilings or placing obstructions;

(5) Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure;

(6) Construction of any on-site sewage disposal system, or other underground facilities, except exempted activities;

(7) Destroying or altering vegetation through clearing, harvesting, shading or planting vegetation that would alter the character of a wetland;

(8) Activities that result in significant changes in water temperature, physical or chemical characteristics of wetland water sources, including water quantity and quality, soil flow, or natural contours, and pollutants;

(9) Any other activity potentially affecting a wetland or wetland buffer not otherwise exempt from the provisions of this chapter; and

(10) Work to maintain wetlands intentionally created from nonwetland areas as mitigation for wetland impacts. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.080 Exemptions to wetland regulations.

(1) See MMC 19.24.330 for general exemptions to all critical areas.

(2) The following activities shall be exempt from the provisions of this chapter related to wetlands and their buffers, provided they are conducted using best management practices on wetlands:

(a) Activities involving artificially created wetlands intentionally created from nonwetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except wetlands created as mitigation.

(b) Work in wetlands created after July 1, 1990, that were unintentionally created as a result of road, street, or highway construction.

(c) In addition, the director may waive compliance with wetland buffer and compensation requirements for the fill of a Class IV wetland no greater than one-tenth of an acre in size if all the following criteria are met:

(i) The wetland is not contiguous with a freshwater or estuarine system and is not considered part of a mosaic wetland complex;

(ii) Standing water is not present in sufficient amounts to support breeding amphibians;

(iii) Species listed as federal endangered, threatened, and candidate species, or listed by the state as endangered, threatened, and sensitive species, or essential habitat for those species, are not present;

(iv) Some form of mitigation is provided for the hydrologic and water quality functions; for example, stormwater treatment or landscaping or other mitigation; and

(v) A wetland assessment prepared by a qualified professional, demonstrating the waiver criteria are met.

(vi) The determination to waive requirements shall be reviewed through the city's SEPA review process as established in Chapter 19.22 MMC.

(3) Notwithstanding the exemption provided by MMC 19.24.330 and by this chapter, any otherwise exempt activities occurring in or near wetlands shall comply with the intent of these standards and shall consider on-site alternatives that avoid or minimize potential wetland impacts. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.090 Wetland inventory maps.

The approximate location and extent of wetlands within the city of Marysville's planning area are shown on the critical areas maps adopted as part of this chapter. These maps shall be used as a general guide only for the assistance of property owners and the public; boundaries are generalized. The actual category, extent and boundaries of wetlands shall be determined in the field by a qualified scientific professional according to the procedures, definitions and criteria established by this chapter and Chapter 19.06 MMC. In the event of any conflict between the wetland location or designation shown on the city of Marysville wetland areas maps and the criteria or standards of this chapter, the criteria and standards resulting from the field investigation shall control. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.100 Wetland buffer areas.

(1) The establishment of wetland buffer areas shall be required for all development proposals and activities adjacent to wetlands to protect the integrity, function and value of the wetland. Buffers shall consist of an undisturbed area of native vegetation established to protect the functions and values of the wetland. Buffers shall be determined in conjunction with considerations of wetland category and quality, approved wetland alterations and required mitigation measures. Buffers are not intended to be established or to function independently of the wetland they are established to protect; the establishment of a buffer shall not operate to prevent a use or activity that would otherwise be permitted as set forth in MMC 19.24.080, subsections (7) and (8) of this section, and MMC 19.24.330, in the wetland subject to mitigation.

(2) Buffers shall be measured from the wetland edge as delineated and marked in the field using the wetland delineation methods defined in Chapter 19.06 MMC. Required buffer widths shall reflect the sensitivity of the wetland and its category and intensity of human activity proposed to be conducted near the wetland.

(3) Where existing buffer area plantings provide minimal vegetative cover and cannot provide the minimum water quality or habitat functions, buffer enhancement shall be required. Where buffer enhancement is required, a plan shall be prepared that includes plant densities not less than five feet on center for shrubs and 10 feet on center for trees. Monitoring and maintenance of plants shall be required in accordance with MMC 19.24.150, Wetland monitoring program and contingency plan. Existing buffer vegetation is considered "inadequate" and will require enhancement through additional native plantings and removal of nonnative plants when:

(a) Nonnative or invasive plant species provide the dominate cover;

(b) Vegetation is lacking due to disturbance, and wetland resources could be adversely affected; or

(c) Enhancement plantings in the buffer could significantly improve buffer functions.

(4) The following buffer widths are established as minimum targets. All buffer widths shall be measured from the wetland boundary as surveyed in the field. If according to the buffer mitigation plan, the buffer is not sufficient to protect the wetland, the city shall require larger buffers where it is necessary to protect wetlands functions based on site-specific characteristics. As an alternative to the buffer width being based on wetland category, the buffer width for Category I wetlands may be established according to the "Buffer Alternative 3" methodology contained in the Department of Ecology's document titled "Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands, Appendix 8 C." Buffer Alterative 3 establishes buffer widths based on wetland category, intensity of impacts, and wetland functions or special characteristics.

Table 1. Wetland Buffer Widths

Wetland Category	Buffer Width
Category I Ebey Slough except in the following location: north and south shore of Ebey Slough between the western city limits, at approximately I-5, and 47th Ave. NE	125 feet 100 feet 25 feet
Category II	100 feet
Category III	75 feet
Category IV	35 feet

(5) Buffer widths may be modified by averaging buffer widths as set forth herein:

(a) Buffer width averaging shall be allowed only where the applicant demonstrates to the community development department that the averaging will not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, ground water recharge, shoreline protection and erosion protection and other functions of the wetland and buffer, that lower-intensity land uses would be located adjacent to areas where buffer width is reduced, and that the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;

(b) Buffer reductions may be allowed for Category III and IV wetlands; provided, that the applicant demonstrates the proposal meets criteria in subsections (5)(b)(i) through (iii) and either (iv) or (v) of this section. Buffer width reduction proposals that meet the criteria as determined by the director shall be reduced by no more than 25 percent of the required buffer and shall not be less than 25 feet in width.

(i) The buffer area meets buffer area planting requirements in subsection (3) of this section and MMC 19.24.140 and has less than 15 percent slopes; and

(ii) A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science as described in MMC 19.24.040; and

(iii) Buffer width averaging as outlined in subsection (5)(a) of this section is not being utilized; and either

(iv) The subject property is separated from the wetland by pre-existing, intervening, and lawfully created structures, public roads, or other substantial pre-existing intervening improvements; and the intervening structures, public roads, or other substantial improvements are found to separate the subject upland property from the wetland due to their height or width, preventing or impairing the delivery of buffer functions to the wetland, in which cases the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland; or

(v) The wetland scores 19 points or less for wildlife habitat in accordance with the rating system applied in MMC 19.24.060, and mitigation is provided based on MMC 19.24.140, 19.24.380, and Table 2 below, when determined appropriate based on the evaluation criteria in subsection (5)(b)(ii) of this section.

Table 2. Mitigation Measures

Disturbance	Activities that may cause disturbance	Measures to minimize impacts
Lights	Parking lots, warehouses, manufacturing, high density residential	Direct lights away from wetland
Noise	Manufacturing, high density residential	Place activity away from wetland

Table 2. Mitigation Measures

Pets and Humans	Residential areas	Landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets
Dust	Tilled fields	Best management practices for dust control

(c) Notwithstanding the reductions permitted in subsections (5)(a) and (b) of this section, buffer widths shall not be reduced by more than 25 percent of the required buffer.

(6) The buffer width stated in subsection (4) of this section shall be increased by 25 percent:

(a) When the qualified scientific professional determines, based upon a site-specific wetland analysis, that for Category III and IV wetlands the habitat value equals or exceeds 20 points, and for Category II wetlands the habitat value equals or exceeds 29 points; or

(b) When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or

(c) When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or

(d) When the minimum buffer for a wetland exceeds into an area with a slope of greater than 25 percent, the buffer shall be the greater of:

(i) The minimum buffer for that particular wetland; or

(ii) Twenty-five feet beyond the point where the slope becomes 25 percent or less.

(7) The community development director may authorize the following low impact uses and activities provided they are consistent with the purpose and function of the wetland buffer and do not detract from its integrity: viewing platforms and interpretive signage, uses permitted within the buffer shall be located in the outer 25 percent of the buffer.

(8) Trails and Open Space. For walkways and trails, and associated open space in critical buffers located on public property, or on private property where easements or agreements have been granted for such purposes, all of the following criteria shall be met:

(a) The trail, walkway, and associated open space shall be consistent with the comprehensive parks, recreation, and open space master plan. The city may allow private trails as part of the approval of a site plan, subdivision or other land use permit approvals.

(b) Trails and walkways shall be located in the outer 25 percent of the buffer, i.e., the portion of the buffer that is farther away from the critical area. Exceptions to this requirement may be made for:

(i) Trail segments connecting to existing trails where an alternate alignment is not practical and where public access points to water bodies are spaced periodically along the trail.

(c) Enhancement of the buffer area is required where trails are located in the buffer. Where enhancement of the buffer area adjacent to a trail is not feasible due to existing high quality vegetation, additional buffer area or other mitigation may be required.

(d) Trail widths shall be a maximum width of 10 feet. Trails shall be constructed of permeable materials; provided, that impervious materials may be allowed if pavement is required for handicapped or emergency access, or safety, or is a designated nonmotorized transportation route or makes a connection to an already dedicated trail, or reduces potential for other environmental impacts.

(9) Utilities may be allowed in wetlands or wetland buffers if limited to the pipelines, cables, wires and support structures of utility facilities within utility corridors when the following standards are met:

(a) There is no alternative location with less adverse impact on the critical area and critical area buffer;

(b) New utility corridors are not located over habitat used for salmonid rearing or spawning or by a species listed in MMC 19.24.180(1)(a) unless the department determines that there is no other feasible crossing site;

(c) To the maximum extent practical utility corridors are located so that:

(i) The width is minimized;

(ii) The removal of trees is minimized;

(iii) An additional, contiguous and undisturbed wetland buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the wetland;

(d) To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary, the following standards are met:

(i) To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and

(ii) The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

(e) The utility corridor or facility will not adversely impact the overall wetland hydrology;

(f) The utility corridor serves multiple purposes and properties to the maximum extent practical;

(g) Bridges or other construction techniques that do not disturb the wetlands are used to the maximum extent practical;

(h) Bored, drilled or other trenchless crossing is laterally constructed under a wetland; provided, that the activity does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist shall be conducted to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column could be disturbed.

(10) Stormwater management facilities, such as biofiltration swales, may be located within the outer 25 percent of wetland buffers only if they will have no negative effect on the functions and purpose the buffers serve for the wetland. Stormwater detention ponds shall not be allowed in wetlands or their buffers.

(11) For subdivisions and short subdivisions, the applicable wetland and associated buffer requirements for any development or redevelopment of uses specifically identified in, and approved as part of, the original subdivision or short subdivision application shall be those requirements in effect at the time that the complete subdivision or short subdivision application was filed; provided, that for subdivisions this provision shall be limited to final plats reviewed and approved under Ordinance 1928, "Sensitive Areas," adopted December 14, 1992, or as amended at the time of final plat approval. However, at the discretion of the community development director a buffer enhancement plan may be required in accordance with subsection (3) of this section if the wetland or buffer has become degraded or is currently not functioning or if the wetland and/or buffer maybe negatively affected by the proposed new development.

(12) Minor additions or alterations, such as decks and minor additions less than 120 square feet, interior remodels, or tenant improvements which have no impact on the wetland or wetland buffer, are exempt from the buffer enhancement requirements.

(13) Required buffers shall not deny all reasonable use of property. A variance from buffer width requirements may be granted by the hearing examiner for the city of Marysville upon showing by the applicant that:

(a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from buffer width requirements; and

(b) Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and

(c) The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and

(d) The granting of the buffer width variance will not materially affect the subject wetland;

(e) Best available science, as set forth in MMC 19.24.040, shall be taken into consideration in the granting of a buffer width variance. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.110).

19.24.110 Wetland alteration and mitigation.

(1) All adverse impacts to wetland functions and values shall be mitigated. Mitigation actions by an applicant or property owner shall occur in the following priority sequence:

(a) Avoiding the impact altogether by not taking a certain action or parts of actions;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing or providing substitute resources or environments;

(f) Monitoring the impact and taking appropriate corrective measures.

(2) Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of

this section. These shall include consideration of alternative site plans and building layouts or reductions in the density or scope of the proposal.

(3) Alteration of wetlands or their buffers may be permitted by the community development department subject to the following criteria:

(a) Category I Wetlands. Alterations of Category I wetlands shall be avoided, subject to the reasonable use provisions of these regulations.

(b) Category II Wetlands.

(i) Any proposed alteration and mitigation shall comply with requirements of this section, MMC 19.24.120, and 19.24.130 through 19.24.150; and

(ii) No net loss of wetland function and value will occur due to the alteration.

(c) Category III and IV Wetlands.

(i) The proposed mitigation complies with the requirements of this section and MMC 19.24.130 through 19.24.160; and

(ii) Where enhancement is proposed, replacement ratios comply with the requirements of MMC 19.24.120(3). (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.120).

19.24.120 Wetland mitigation standards and criteria.

(1) Location and Timing of Mitigation.

(a) Restoration, creation, or enhancement actions should be undertaken on or adjacent to the site, or where restoration or enhancement of a former wetland is proposed, within the same watershed. Replacement in-kind of the impacted wetland is preferred for creation, restoration, or enhancement actions. The city may accept or recommend restoration, creation, or enhancement which is off-site and/or out-of-kind, if the applicant can demonstrate that on-site or in-kind restoration, creation, or enhancement is infeasible due to constraints such as parcel size or wetland type or that a wetland of a different type or location is justified based on regional needs or functions;

(b) Whether occurring on-site or off-site, the mitigation project shall occur near an adequate water supply with a hydrologic connection to the wetland to ensure a successful wetlands development or restoration;

(c) Any agreed-upon proposal shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has been approved by the community development department;

(d) Wetland acreage replacement ratios shall be as specified in subsection (3) of this section.

(2) Mitigation Performance Standards.

(a) Adverse impacts to wetland functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in MMC 19.24.110(1). Proposals which include less preferred or compensatory mitigation shall demonstrate that:

(i) All feasible and reasonable measures will be taken to reduce impacts and losses to the original wetland;

(ii) No overall net loss will occur in wetland functions, values and acreage; and

(iii) The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

(3) Wetland Replacement Ratios.

(a) Where wetland alterations are permitted by this chapter, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, category, location, timing factors, and projected success of restoration or creation;

(b) Where wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.

(c) The following acreage replacement ratios shall be used as targets. The community development department may vary these standards if the applicant can demonstrate and the community development department agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the community development department justify the variation:

Table 3. Wetland Mitigation Ratios

Category and Type of Wetland	Re-Establishment or Creation	Rehabilitation	Re-Establishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I				
Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 E	16:1
Estuarine	Case by Case	6:1 Rehabilitation of an Estuarine Wetland	Case by Case	Case by Case
Bog	Irreplaceable – Avoidance Required	6:1 Rehabilitation of a Bog	Case by Case	Case by Case
Natural Heritage	Irreplaceable – Avoidance Required	6:1 Rehabilitation of a Natural Heritage Site	Case by Case	Case by Case
Category II				
Estuarine	Case by Case	4:1	Case by Case	Case by Case
All Other	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1

Creation = The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment result in a gain in wetland acres.

Re-Establishment = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.

Rehabilitation = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

Enhancement = The manipulation of the physical, chemical or biological characteristics of a wetland site to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland function, but does not result in a gain in wetland acres.

(d) The qualified scientific professional in the wetlands report may, where feasible, recommend that restored or created wetlands shall be a higher wetland category than the altered wetland.

(4) The community development director may increase the ratios under the following circumstances:

(a) Uncertainty exists as to the probable success of the proposed restoration or creation;

(b) A significant period of time will elapse between impact and replication of wetland functions;

(c) Proposed mitigation will result in a lower category of wetland or reduced functions relative to the wetland being impacted; or

(d) The impact was an unauthorized impact. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.130).

19.24.125 Wetland mitigation banks.

Wetland mitigation banks are a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

(1) Credits from a wetland bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(a) The bank is certified under Chapter 173-700 WAC;

(b) The community development director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(c) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(2) Replacement ratios for projects using bank credits shall be consistent with the terms and conditions of the bank's certification.

(3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. (Ord. 2571 § 2, 2005).

19.24.130 Wetland mitigation plan requirements.

Where it is determined by the city that compensatory wetland mitigation is required or appropriate, a mitigation plan shall be prepared. The purpose of the plan is to prescribe mitigation to compensate for impacts to the wetland functions, values and acreage as a result of the proposed action. This plan shall consider the chemical, physical, and biological impacts on the wetland system using a recognized wetlands assessment methodology and best professional judgment. The mitigation plan shall be prepared in two phases, a preliminary phase and a detailed phase.

(1) Preliminary Plan – Standards and Criteria. The applicant shall prepare a preliminary mitigation plan for submission to the community development department at the time of application filing. The preliminary mitigation plan shall include the following components and shall be consistent with the standards in MMC 19.24.120:

(a) A clear statement of the objectives of the mitigation. The goals of the mitigation plan should be stated in terms of the new wetland functions and values compared to the functions and values of the original wetland. Objectives should include qualitative and quantitative standards for success of the project, including:

(i) Hydrologic characteristics (water depths, water quality, hydroperiod/hydrocycle characteristics, flood storage capacity);

(ii) Vegetative characteristics (community types, species composition, density, and spacing);

(iii) Faunal characteristics; and

(iv) Final topographic elevations;

(b) An ecological assessment of the wetlands values and wetland buffers that will be lost as a result of the activities, and of the replacement wetlands and buffers, including but not limited to the following:

(i) Acreage of project;

(ii) Existing functions and values;

(iii) Sizes of wetlands, wetland buffers, and areas to be altered;

(iv) Vegetative characteristics, including community type, area coverage, species composition and density;

(v) Habitat type(s) to be enhanced, restored, or created;

(c) A statement of the location, elevation, and hydrology of the new site, including the following:

(i) Relationship of the project to the watershed and existing water bodies;

(ii) Topography of site using one-foot contour intervals;

(iii) Water level data, including depth and duration of seasonally high water table;

(iv) Water flow patterns;

(v) Estimated amounts of grading, filling and excavation, including a description of imparted soils;

(vi) Water pollution mitigation measures during construction;

(vii) Aerial coverage of planted areas to open water areas (if any open water is to be present); and

(viii) Appropriate buffers;

(d) A conceptual planting plan.

(2) Prior to final development approval, a final plan consistent with the standards in MMC 19.24.150 shall be submitted. In addition to information contained within the preliminary plan, the detailed plan will contain:

(a) A detailed planting plan, describing what will be planted, and where and when the planting will occur as follows:

(i) Soils and substrate characteristics;

(ii) Specify substrate stockpiling techniques;

(iii) Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirements; and

(iv) Dates for beginning and completion of mitigation project, and sequence of construction activities;

(b) A monitoring and maintenance plan, consistent with MMC 19.24.160:

(i) Specify procedures for monitoring and site maintenance; and

(ii) Submit monitoring reports to the community development department as outlined in MMC 19.24.150(2)(d)(i) through (vi);

(c) A contingency plan, consistent with these regulations;

(d) A detailed budget for implementation of the mitigation plan, including monitoring, maintenance and contingency phases;

(e) A guarantee, in the form of a bond or other security device in a form acceptable to the city attorney, assuring that the work will be performed as planned and approved, consistent with MMC 19.24.150(2). (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.140).

19.24.140 Performance standards for wetland mitigation planning.

(1) The following performance standards shall be incorporated into mitigation plans submitted to the city of Marysville:

(a) Use native plants (not introduced or foreign species);

(b) Use plants adaptable to a broad range of water depths;

(c) Plants should be commercially available or available from local sources;

(d) Plant species high in food and cover value for fish and wildlife;

(e) Plant mostly perennial species;

(f) Avoid committing significant areas of site to species that have questionable potential for successful establishment;

(g) Plant selection must be approved by a qualified scientific professional;

(h) Planting densities and placement of plants should be determined by the qualified scientific professional and shown on the design plans;

(i) The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;

(j) Minimum buffer widths as outlined in MMC 19.24.100;

(k) The planting plan must be approved by the city's planning director or consultant;

(l) Stockpiling should be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;

(m) Planting instructions which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

(n) Apply controlled-release fertilizer at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process) and with consideration of run-off and a type that will minimize impacts beyond the area intended;

(o) Install an irrigation system, if necessary, for initial establishment period as determined by the planning director or their designated official;

(p) Buffers shall be surveyed, staked, and fenced prior to any construction work, including grading and clearing, may take place on the site. Permanent fencing is required pursuant to MMC 19.24.380;

(q) Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction; and

(r) Construction specifications and methods must be approved by a qualified scientific professional and the community development department.

(2) The following additional standards shall apply to wetland creation sites:

(a) Water depth is not to exceed 6.5 feet (two meters);

(b) The grade or slope that water flows through the wetland is not to exceed six percent;

(c) Slopes within the wetland basin and the buffer zone should not be steeper than three to one ratio (horizontal to vertical);

(3) On completion of construction, the wetland mitigation project must be signed off to indicate that the construction has been completed as planned, by the applicant's qualified scientific professional and the community development department. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.150).

19.24.150 Wetland monitoring program and contingency plan.

(1) A monitoring program shall be implemented to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.

(2) A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails. A performance, monitoring, and maintenance bond or other acceptable security device is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance, monitoring, and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of five years; the community development department may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond. Failure to complete any required performance, monitoring, and maintenance shall result in the forfeiture of the guarantee. Applicants who have previously defaulted will no

longer be allowed to post a bond for performance, monitoring, and maintenance but will instead be required to submit an assignment of bank account to the city of Marysville for two times the cost of the mitigation project.

(a) During monitoring, use scientific procedures for establishing the success or failure of the project;

(b) For vegetation determinations, permanent sampling points shall be established;

(c) Vegetative success equals 80 percent survival of planted trees and shrubs and 80 percent cover of desirable understory or emergent species;

(d) Submit monitoring reports on the current status of the mitigation project to the community development department. The reports are to be prepared by a qualified scientific professional and reviewed by the community development department and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

(i) At time of construction;

(ii) Thirty days after planting;

(iii) Early in the growing season of the first year;

(iv) End of the growing season of first year;

(v) Twice the second year; and

(vi) Annually thereafter;

(e) Monitor between three and five growing seasons, depending on the complexity of the wetland system. The time period will be determined and specified in writing prior to the implementation of the site plan;

(f) If necessary, correct for failures in the mitigation project;

(g) Replace dead or undesirable vegetation with appropriate plantings, based on the approved planting plan or MMC 19.24.140;

(h) Repair damages caused by erosion, settling, or other geomorphological processes;

(i) Redesign mitigation project (if necessary) and implement the new design; and

(j) Correction procedures shall be approved by a qualified scientific professional and the community development department. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.160).

19.24.160 Off-site density transfers for wetland areas.

Reserved. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.170).

19.24.170 Reserved.

(Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.180).

Article III. Fish and Wildlife Habitat Areas

19.24.180 Fish and wildlife habitat conservation areas designated.

While not all of the below listed critical habitat areas exist in the city of Marysville, these regulations provide for the protection of the following fish and wildlife habitat conservation areas:

(1) Primary fish and wildlife habitat conservation areas shall include the following:

(a) Habitats with federally designated endangered, threatened, and candidate species and state designated endangered, threatened, and sensitive species which have a primary association as defined in MMC 19.06.375. Federally designated endangered, threatened and candidate species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (State Endangered Species) and WAC 232-12-011 (State Threatened and Sensitive Species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

(b) State designated priority habitats and areas that are associated with state designated endangered, threatened, and sensitive species in subsection (1)(a) of this section. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value

to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional state, or a specific structural element. Priority habitats and species are identified by the Department of Fish and Wildlife.

(c) Naturally occurring ponds under 20 acres or not less than 0.50 acres (lakes greater than 20 acres are covered under shoreline regulations).

(d) Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity.

(e) State natural area preserves and natural resource conservation areas.

(f) Areas of rare plant species and high quality ecosystems as documented by the State Department of Natural Resources Heritage Program.

(g) Land that provides essential connections between habitat blocks and open space and that is designated by the State Department of Fish and Wildlife as a priority habitat in association with state endangered, threatened, or sensitive species in subsection (1)(a) of this section.

(h) Streams as defined and classified in MMC 19.06.470.

(2) Habitats and species of local importance are those identified by the city, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(a) Designation Process. The city shall accept and consider nomination for habitat areas and species to be designated as locally important on an annual basis.

(b) Habitats and species to be designated shall exhibit at least one of the criteria in subsections (2)(b)(i) to (iii) of this section and shall meet criteria in subsections (2)(b)(iv) and (v) of this section.

(i) Local populations of native species are in danger of extirpation based on existing trends, including:

(A) Local populations of native species that are likely to become endangered; or

(B) Local populations of native species that are vulnerable or declining; or

(ii) The species or habitat has recreation, commercial, game, tribal, or other special value; or

(iii) Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat; and

(iv) Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the city; and

(v) Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

(c) Areas nominated to protect a particular habitat or species must represent high-quality native habitat or habitat that either has a high potential to recover to a suitable condition and is of limited availability or provides landscape connectivity which contributes to the designated species or habitat's preservation.

(d) Habitats and species may be nominated for designation by any resident of Marysville.

(e) The petition to nominate an area or a species to this category shall contain all of the following:

(i) A completed SEPA environmental checklist;

(ii) A written statement using best available science to show that nomination criteria in subsections (2)(b) and (c) of this section are met;

(iii) A written proposal including specific and relevant protection regulations that meet the goals of this chapter. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided;

(iv) Demonstration of relevant, feasible, management strategies that are effective and within the scope of this chapter;

(v) Provision of species habitat location(s) on a map that works in concert with other city maps;

(vi) An economic impact (cost/benefit) analysis of proposal;

(vii) Documentation of public notice methods that the petitioner(s) have used. Examples of reasonable methods are:

(A) Posting the property;

(B) Publishing a paid advertisement in a newspaper or newsletter of circulation in the general area of the proposal, where interested persons may review information on the proposal. Information in the notice must contain a description of the proposal, general location of the affected area and where comments on the proposal may be sent;

(C) Notification to public or private groups in the affected area that may have an interest in the petition;

(D) News media articles that have been published concerning the proposal;

(E) Notices placed at public buildings or bulletin boards in the affected area;

(F) Mailing of informational flyers to property owners within the affected area;

(viii) Signatures of all petitioners.

(g) The community development director shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in subsection (2)(b) of this section and make a recommendation to the planning commission based on those findings.

(h) The planning commission shall hold a public hearing for proposals found to be complete and make a recommendation to the city council based on the characteristics enumerated in subsection (2)(b) of this section.

(i) Following the recommendation of the planning commission, the city council may hold an additional public hearing and shall determine whether to designate a habitat or species of local importance.

(j) Approved nominations will be subject to the provisions of this title. (Ord. 2571 § 2, 2005).

19.24.190 Regulated activities in habitats.

The following activities within a habitat and its associated buffer as set forth in MMC 19.24.230, or outside a habitat or buffer but with the potential of adversely affecting the habitat or buffer, shall be regulated pursuant to the standards of this chapter:

(1) Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind.

(2) Dumping, discharging or filling with any material.

(3) Draining, flooding or disturbing the water level or water table.

(4) Driving piling or placing obstructions.

(5) Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure.

(6) Construction of any on-site sewage disposal system, or other underground facilities, except exempted activities.

(7) Destroying or altering habitat vegetation through clearing, harvesting, shading or planting vegetation that would alter the character of a habitat or buffer, the shade and protection for a stream, or that is a source of food or habitat for fish or game.

(8) Activities that result in significant changes in water temperature, physical or chemical characteristics of water sources, including water quantity and quality, soil flow, natural ground contours, or pollutants.

(9) Relocation of the natural course of the stream, or modification of the flow characteristics thereof.

(10) Any other activity potentially affecting a habitat or habitat buffer not otherwise exempt from the provisions of this chapter. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.200 Exemptions from fish and wildlife regulations.

(1) See MMC 19.24.330 for general exemptions to all critical areas.

(2) The following activities shall be exempt from the provisions of this chapter related to fish and wildlife habitat provided they are conducted using best management practices:

(a) Activities involving artificially created habitat, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities such as ponds, and landscape features, except for habitat areas created as mitigation and artificially created habitats used by salmonid fish;

(b) Prior to the effective date of the ordinance codified in this chapter, all commercial and industrial uses, developments, and activities which exist within the stream buffers shall be allowed to continue in existence, and to be repaired, maintained and remodeled as provided in Chapter 19.44 MMC, Nonconformance and Temporary Uses.

(3) No private or public entity shall undertake exempt activities as listed in this section prior to providing the city written notification of the entity's intent to proceed with an exempt activity. The city shall verbally confirm whether or not the activity is exempt and where needed provide written authorization within 30 days of receipt of the written notice.

(4) In case of any questions as to whether a particular activity is exempt under provisions of this section, the community development department's determination shall prevail and be determinative.

(5) Notwithstanding the exemption provided by this section, any otherwise exempt activities occurring in or near critical habitat areas shall comply with the intent of these standards and shall consider on-site alternatives that avoid or minimize potential habitat impacts. Exempt activities shall use reasonable methods (i.e., best management practices) to avoid potential impacts to fish and wildlife habitat. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.210 Fish and wildlife habitat inventory maps.

(1) The approximate location and extent of habitat areas within the city of Marysville's planning area are shown on the maps adopted as part of this chapter. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent and boundaries of habitat areas shall be determined by a qualified scientific professional according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the habitat location or type shown on the city's fish and wildlife conservation areas maps and the criteria or standards of this chapter, the criteria and standards resulting from the field investigation shall control.

(2) The following maps are hereby adopted for the purpose set forth in subsection (1) of this section:

(a) City of Marysville Fish and Wildlife Conservation Areas Map;

(b) Washington Department of Fish and Wildlife Priority Habitat and Species Maps;

(c) Washington State Department of Natural Resources, Official Water Type Reference Maps, as amended;

(d) Washington State Department of Natural Resources Natural Heritage Program mapping data;

(e) Washington State Department of Natural Resources State Natural Area Preserves and Natural Resources Conservation Area Maps;

(f) Washington State Department of Health Annual Inventory of Shellfish Harvest Areas;

(g) Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors Reports published by the Washington Conservation Commission;

(h) Washington State Department of Natural Resources Puget Sound Intertidal Habitat Inventory Maps; and

(i) Washington State Department of Natural Resources Shorezone Inventory or Northwest Straits Commission – Snohomish County Marine Resources Committee Inventory. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.220 Classification of fish and wildlife habitat areas.

(1) Streams. Streams shall be classified according to the stream type system as provided in WAC 222-16-030, Stream Classification System, as amended.

(a) Type S Stream. Those streams, within their ordinary high water mark, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant thereto.

(b) Type F Stream. Those stream segments within the ordinary high water mark that are not Type S streams, and which are demonstrated or provisionally presumed to be used by salmonid fish. Stream segments which have a width of two feet or greater at the ordinary high water mark and have a gradient of 16 percent or less for basins less than or equal to 50 acres in size, or have a gradient of 20 percent or less for basins greater than 50 acres in size are provisionally presumed to be used by salmonid fish. A provisional presumption of salmonid fish use may be refuted at the discretion of the community development director where any of the following conditions are met:

(i) It is demonstrated to the satisfaction of the city that the stream segment in question is upstream of a complete, permanent, natural fish passage barrier, above which no stream section exhibits perennial flow;

(ii) It is demonstrated to the satisfaction of the city that the stream segment in question has confirmed, long-term, naturally-occurring water quality parameters incapable of supporting salmonid fish;

(iii) Sufficient information about a geomorphic region is available to support a departure from the characteristics described above for the presumption of salmonid fish use, as determined in consultation with the Washington Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;

(iv) The Washington Department of Fish and Wildlife has issued a hydraulic project approval pursuant to RCW 77.55.100, which includes a determination that the stream segment in question is not used by salmonid fish;

(v) No salmonid fish are discovered in the stream segment in question during a stream survey conducted according to the protocol provided in the Washington Forest Practices Board Manual, Section 13, Guidelines for Determining Fish Use for the Purpose of Typing waters under WAC 222-16-031; provided, that no unnatural fish passage barriers have been present downstream of said stream segment over a period of at least two years.

(c) Type Np Stream. Those stream segments within the ordinary high water mark that are perennial and are not Type S or Type F streams. However, for the purpose of classification, Type Np streams include intermittent dry portions of the channel below the uppermost point of perennial

flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see Washington Forest Practices Board Manual, Section 23), then said point shall be determined by a qualified professional selected or approved by the city.

(d) Type Ns Stream. Those stream segments within the ordinary high water mark that are not Type S, Type F, or Type Np streams. These include seasonal streams in which surface flow is not present for at least some portion of a year of normal rainfall that are not located downstream from any Type Np stream segment. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2151 § 15, 1997).

19.24.230 Fish and wildlife habitat buffer areas.

(1) The establishment of buffer areas shall be required for regulated activities in or adjacent to habitat areas. Buffers shall consist of an undisturbed area of native vegetation established to protect the integrity, functions and values of the affected habitat. Activities within buffers should not result in any net loss of the functions and values associated with streams and their buffers.

(a) The following buffer widths are established:

Streams	Buffer
Type S Quilceda Creek Ebey Slough Except in the following location north and south shore of Ebey Slough between the western city limits and 47th Ave. NE	 200 feet 100 feet 25 feet
Type F Gissberg Twin Lakes	150 feet Lake setbacks correspond to county park boundaries
Type Np	100 feet
Type Ns	50 feet

(b) Federal, State, and Local Habitats and Species.

(i) Except for waters subject to subsection (1)(a) of this section, and bald eagles subject to subsection (1)(b)(ii) of this section, the establishment of buffer areas may be required for regulated activities in or adjacent to federal, state, and local species and habitat areas as designated pursuant to MMC 19.24.180 and 19.24.220. Buffers shall consist of an undisturbed area of native vegetation established to protect the integrity, functions and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. Buffers shall be determined by the department based on information in the biological/habitat report, a habitat management plan approved by the Department of Fish and Wildlife supplemented by its own investigations, the intensity and design of the proposed use, and adjacent uses and activities. Buffers are not intended to be established or to function independently of the habitat they are established to protect. Buffers shall be measured from the edge of the habitat area.

(ii) Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).

(2) Where existing buffer area plantings provide minimal vegetative cover and cannot provide the minimum water quality or habitat functions, buffer enhancement shall be required. Where buffer enhancement is required, a plan shall be prepared that includes plant densities that are not less than five feet on center for shrubs and 10 feet on center for trees. Monitoring and maintenance of plants shall be required in accordance with MMC 19.24.270. Existing buffer vegetation is considered "inadequate" and will require enhancement through additional native plantings and removal of nonnative plants when:

(a) Nonnative or invasive plant species provide the dominate cover;

(b) Vegetation is lacking due to disturbance and stream resources could be adversely affected; or

(c) Enhancement planting in the buffer could significantly improve buffer functions. If according to the buffer enhancement plan, additional buffer mitigation is not sufficient to protect the habitat, the city shall require larger buffers where it is necessary to protect habitat functions based on site-specific characteristics.

(3) Measurement of Buffers.

(a) Stream Buffers. All buffers shall be measured from the ordinary high water mark as identified in the field or, if that cannot be determined, from the top of the bank. In braided channels and alluvial fans, the ordinary high water mark or top of bank shall be determined so as to include the entire stream feature;

(b) Combination Buffers. Any stream adjoined by a wetland or other adjacent habitat area shall have the buffer which applies to the wetland

or other habitat area unless the stream buffer requirements are more expansive.

(4) Buffer widths may be modified by averaging buffer widths as set forth herein:

(a) Buffer width averaging shall be allowed only where the applicant demonstrates to the community development department that the averaging will not impair or reduce habitat, water quality purification and enhancement, stormwater detention, ground water recharge, shoreline protection and erosion protection and other functions of the stream and buffer, that lower intensity land uses would be located adjacent to areas where buffer width is reduced, and that the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;

(b) Notwithstanding the reductions permitted in subsection (4)(a) of this section, buffer widths shall not be reduced by more than 25 percent of the required buffer.

(5) The buffer width stated in subsection (2) of this section shall be increased in the following circumstances:

(a) When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse habitat impacts; or

(b) When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or

(c) When the minimum buffer for a habitat extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:

(i) The minimum buffer for that particular habitat; or

(ii) Twenty-five feet beyond the point where the slope becomes 25 percent or less.

(6) The community development director may authorize the following low impact uses and activities provided they are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved. To the extent reasonably practicable, examples of uses and activities which may be permitted in appropriate cases include pedestrian trails, viewing platforms, interpretive signage, utility easements and the installation of underground utilities pursuant to best management practices. Uses permitted within the buffer shall be located in the outer 25 percent of the buffer.

(7) Trails and Open Space. For walkways and trails, associated open space in critical buffers located on public property, or on private property where easements or agreements have been granted for such purposes all of the following criteria shall be met.

(a) The trail, walkway, and associated open space shall be consistent with the comprehensive parks, recreation, and open space master plan. The city may allow private trails as part of the approval of a site plan, subdivision or other land use permit approvals.

(b) Trails and walkways shall be located in the outer 25 percent of the buffer, i.e., the portion of the buffer that is farther away from the critical area. Exceptions to this requirement may be made for:

(i) Trail segments connecting to existing trails where an alternate alignment is not practical. Public access points to water bodies spaced periodically along the trail.

(c) Enhancement of the buffer area is required where trails are located in the buffer. Where enhancement of the buffer area adjacent to a trail is not feasible due to existing high quality vegetation, additional buffer area or other mitigation may be required.

(d) Trail widths shall be a maximum width of 10 feet. Trails shall be constructed of permeable materials; provided, that impervious materials may be allowed if pavement is required for handicapped or emergency access, or safety, or is a designated nonmotorized transportation route or makes a connection to an already dedicated trail, or reduces potential for other environmental impacts.

(8) Allowed Activity – Utilities in Streams. New utility lines and facilities may be permitted to cross water bodies in accordance with an approved supplemental stream/lake study, if they comply with the following criteria:

(a) Fish and wildlife habitat areas shall be avoided to the maximum extent possible; and

(b) The utility is designed consistent with one or more of the following methods:

(i) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone; or

(ii) The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams perpendicular to the channel centerline; or

(iii) Crossings shall be contained within the footprint of an existing road or utility crossing; and

(c) New utility routes shall avoid paralleling the stream or following a down-valley course near the channel; and

(d) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration; and

(e) Seasonal work windows are determined and made a condition of approval; and

(f) Mitigation criteria of MMC 19.24.250 are met.

(9) Stormwater management facilities, such as biofiltration swales, may be located within the outer 25 percent of buffers only if they will have no negative effect on the functions and purpose the buffers serve for the fish and wildlife habitat areas. Stormwater detention ponds shall not be allowed in fish and wildlife habitat areas or their required buffers.

(10) For subdivisions and short subdivisions, the applicable wetland and associated buffer requirements for any development or redevelopment of uses specifically identified in, and approved as part of, the original subdivision or short subdivision application shall be those requirements in effect at the time that the complete subdivision or short subdivision application was filed; provided, that for subdivisions this provision shall be limited to final plats reviewed and approved under Ordinance 1928, "Sensitive Areas," adopted December 14, 1992, or as amended at the time of final plat approval. However, at the discretion of the community development director a buffer enhancement plan may be required in accordance with subsection (3) of this section if the wetland or buffer has become degraded or is currently not functioning or if the wetland and/or buffer may be negatively affected by the proposed new development.

(11) Minor additions or alterations such as decks and small additions less than 120 square feet, interior remodels, or tenant improvements which have no impact on the habitat or buffer shall be exempt from the buffer enhancement requirements.

(12) Required buffers shall not deny all reasonable use of property. A variance from buffer width requirements may be granted by the city of Marysville upon a showing by the applicant that:

(a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the buffer width requirements; and

(b) Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and

(c) The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and

(d) The granting of the buffer width variance will not materially affect the subject habitat area; and

(e) If a variance application for stream buffers is merged with a pending shoreline development permit application, the applicant shall pay the city a single fee equal to the amount of the shoreline permit; and

(f) No variance from stream buffers shall be granted which is inconsistent with the policies of the Shoreline Management Act of the State of Washington and the master program of the city of Marysville.

(g) Best available science, as set forth in MMC 19.24.040, shall be taken into consideration in the granting of a buffer width variance. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.240 Fish and wildlife habitat alteration and mitigation.

After careful consideration of the potential impacts and a determination that impacts are unavoidable, unavoidable impacts to streams, associated fish buffers and wildlife habitat not exempt under MMC 19.24.200, granted a variance under MMC 19.24.230, or meeting the criteria for a reasonable use exception in MMC 19.24.390 shall be mitigated as follows:

(1) Adverse impacts to habitat functions and values shall be mitigated to the extent feasible and reasonable. Mitigation actions by an applicant or property owner shall occur in the following preferred sequence:

(a) Avoiding the impact altogether by not taking a certain action or parts of actions;

(b) Minimizing impacts by limiting the degree of magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing or providing substitute resources or environments;

(f) Monitoring the impact and taking appropriate corrective measures in accordance with MMC 19.24.260.

(2) Where impacts cannot be avoided, the applicant or property owner shall implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this section. In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and implementation of the performance standards listed in MMC 19.24.260.

(3) Alteration of habitat and their buffers may be permitted by the community development department subject to the following standards:

(a) Type S and F Streams. Alterations of Type S streams shall be avoided, subject to the reasonable use provisions of this chapter and conformance with the city of Marysville shoreline management master program. Access to the shoreline will be permitted for water dependent and water-oriented uses subject to the mitigation sequence referred to in subsections (1) and (2) of this section;

(b) Type F, Np and Ns Streams. Alterations of Type F, Np and Ns streams may be permitted; provided, that the applicant mitigates adverse impacts consistent with the performance standards and other requirements of this chapter and provided that no overall net loss will occur in stream functions and fish habitat;

(c) Relocation of a stream may occur only when it is part of an approved mitigation or rehabilitation plan, and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997).

19.24.250 Fish and wildlife mitigation standards, criteria and plan requirements.

(1) Location and Timing of Mitigation.

(a) Mitigation shall be provided on-site, except where on-site mitigation is not scientifically feasible or practical due to physical features of the property. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site.

(b) When mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of and within the same watershed as the permitted activity on property owned or controlled by the applicant, where practical and beneficial to the fish and wildlife habitat resources. When possible, this means within the same watershed as the location of the proposed project.

(c) In-kind mitigation, as defined in MMC 19.06.271, shall be provided, except when the applicant demonstrates and the community development department concurs that greater functional and habitat value can be achieved through out-of-kind mitigation, as defined in MMC 19.06.369.

(d) Only when it is determined by the community development department that subsections (1)(a), (b), and (c) of this section are inappropriate or impractical shall off-site, out-of-kind mitigation be considered.

(e) Any agreed-upon proposal shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has been approved by the community development department. (Ord. 2571 § 2, 2005).

19.24.260 Fish and wildlife habitat performance standards and incentives.

(1) The habitat performance standards and criteria contained in this section shall be incorporated into plans submitted for regulated activities. It is recognized that in specific situations, all the listed standards may not apply or be feasible to implement or individual standards may conflict, in which case the standard(s) most protective of the environment shall apply.

(a) Consider habitat in site planning and design;

(b) Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas;

(c) Integrate retained habitat into open space and landscaping;

(d) Where possible, consolidate habitat and vegetated open space in contiguous blocks;

(e) Locate habitat contiguous to other habitat areas, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;

(f) Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;

(g) Emphasize heterogeneity and structural diversity of vegetation in landscaping, and food-producing plants beneficial to wildlife and fish;

(h) Remove and control any noxious or undesirable species of plants and animals;

(i) Preserve significant trees and snags, preferably in groups, consistent with achieving the objectives of these standards;

(j) Buffers shall be surveyed, staked, and fenced with erosion control and/or clearing limits fencing prior to any construction work, including grading and clearing, that may take place on the site; and

(k) Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction.

(2) A landscape plan shall be submitted consistent with the requirements, goals, and standards of this chapter. The plan shall reflect the report prepared pursuant to MMC 19.24.330.

(3) As an incentive to encourage preservation of secondary and tertiary habitat, as those terms are defined in these regulations, the net amount of landscaping required by the city of Marysville may be reduced by .25 acres for each one acre of secondary or tertiary habitat and buffer preserved on the site; however, that amount cannot exceed 50 percent of the amount of required landscaping. The reduction shall be calculated on the basis of square feet of habitat preserved or enhanced and square feet of landscaping required. Habitat and habitat buffer that is enhanced by the applicant may also qualify for this reduction. Preservation of secondary or tertiary habitat shall be assured by the execution of an easement or other protective device acceptable to the city of Marysville. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.250).

19.24.270 Fish and wildlife habitat monitoring program and contingency plan.

(1) A monitoring program shall be implemented to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.

(2) A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails. A performance, monitoring, and maintenance bond or other acceptable security device is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance, monitoring, and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of five years; provided, that the community development department may agree to reduce the bond in phases, in proportion to work successfully completed over the period of the bond. Failure to complete any required performance, monitoring, and maintenance shall result in the forfeiture of the guarantee. Applicants who have previously defaulted will no longer be allowed to post a bond for performance, monitoring, and maintenance but will instead be required to submit an assignment of bank account to the city of Marysville for two times the cost of the mitigation project.

(3) The monitoring program shall consist of the following:

(a) During monitoring, best available scientific procedures shall be used as the method of establishing the success or failure of the project;

(b) For vegetation determinations, permanent sampling points shall be established;

(c) For measurement purposes, vegetative success shall equal 80 percent survival of planted trees and shrubs and 80 percent cover of desirable understory or emergent species;

(d) Monitoring reports shall be submitted on the current status of the mitigation project to the community development department. The reports shall be prepared by a qualified scientific professional and reviewed by the city, shall to the extent applicable include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

(i) At time of construction;

(ii) Thirty days after planting;

(iii) Early in the growing season of the first year;

(iv) End of the growing season of first year;

(v) Twice the second year; and

(vi) Annually thereafter;

(e) Monitoring shall occur three, four, or five growing seasons, depending on the complexity of the fish and wildlife habitat system. The monitoring period will be determined by the community development department and specified in writing prior to the implementation of the site plan;

(f) The applicant shall if necessary, correct for failures in the mitigation project;

(g) The applicant shall replace dead or undesirable vegetation with appropriate plantings, based on the approved planting plan or MMC 19.24.140;

(h) The applicant shall repair damage caused by erosion, settling, or other geomorphological processes;

(i) Correction procedures shall be approved by a qualified scientific professional and the community development department; and

(j) In the event of failure of the mitigation project, the applicant shall redesign the project and implement the new design. (Ord. 2571 § 2, 2005).

Article IV. Geologic Hazard Areas

19.24.280 Applicability to geologic hazards.

(1) The provisions of this section shall apply to any activity that occurs in, on or within 300 feet of (as indicated on the geologic hazard maps), or potentially affects, a geologic hazard area subject to this chapter unless otherwise exempt. These activities may include, but are not limited to, the following:

(a) Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

(b) Dumping, discharging or filling with any material;

(c) Driving pilings or placing obstructions;

(d) Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure;

(e) Construction of any on-site sewage disposal system, or other underground facilities, except exempted activities;

(f) Draining, flooding, or disturbing the water level or water table, or changing the flow of water through the site;

(g) Destroying or altering vegetation through clearing or harvesting; and

(h) Any other activity potentially affecting a geologic hazard area or its setback not otherwise exempt from the provisions of this section.

(2) To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of this section: clearing and grading; subdivision or short subdivision; building permit; planned unit development; shoreline substantial development; variance; conditional use permit; other permits leading to the development or alteration of land; and rezones. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.270).

19.24.290 Geologic hazard inventory map.

The approximate location and extent of geologic hazard areas within the city of Marysville's planning area are shown on the critical areas maps adopted as part of this chapter. These maps should be used as a general guide only for the assistance of property owners and as information for the public. They are intended to indicate where potentially hazardous conditions are believed to exist. Boundaries are generalized; field investigation and analysis by a qualified scientific professional is required to confirm the actual presence or absence of a critical area. In the event of any conflict between the location, designation or classification of geologic hazard area shown on the Snohomish County Tomorrow geologic hazard areas maps and criteria or standards of this chapter, the criteria and standards resulting from the field investigation shall prevail. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.280).

19.24.300 Alteration of geologic hazard areas and development limitations.

(1) The city of Marysville may approve, condition or deny proposals as appropriate based on the degree to which significant risks posed by critical hazard areas to public and private property and to public health safety can be mitigated. The objective of mitigation measures shall be to render a site containing a critical geologic hazard site as safe as one not containing such hazard or to develop a structure that will tolerate the hazard. Enforceable guarantees shall be required where appropriate. Conditions may include limitations of proposed uses, modification of density, alteration of site layout and other appropriate changes to the proposal. Where potential impacts cannot be effectively mitigated, or where the risk to public health, safety and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, the proposal shall be denied.

(2) Assurances required of the applicant and the qualified scientific professional for geologic hazard areas may at the discretion of the community development director include:

(a) A letter from the geotechnical engineer or geologist who prepared the required studies stating that the risk of damage from the proposal, both on-site and off-site, are minimal subject to the conditions set forth in the report, that the proposal will not increase the risk of occurrence of the geologic hazard, and that measures to eliminate or reduce risks have been incorporated into its recommendations; or

(b) A letter from the applicant, or the owner of the property if not the applicant, stating its understanding and acceptance of any risk of injury or damage associated with development of the site and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard; or

(c) A legally enforceable agreement, which shall be recorded as a covenant and noted on the face of the deed or plat, and executed in a form satisfactory to the city of Marysville, acknowledging that the site is located in a geologic hazard area; the risks associated with development of such site; and a waiver and release of any and all claims of the

owner(s), their directors, employees, successors or assigns against the city of Marysville for any loss, damage or injury, whether direct or indirect, arising out of issuance of development permits for the proposal.

(3) When alteration of a geologic hazard area is approved, the city of Marysville at the discretion of the community development director and/or city engineer may require an assurance device, such as a bond or assignment of bank account to cover the cost of monitoring, maintenance and any necessary corrective actions. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.290).

19.24.310 Setbacks from geologic hazards.

(1) A setback shall be established from the edge of any geologic hazard area that is not approved for alteration pursuant to these regulations. The setback shall consist of an undisturbed area of natural vegetation; if the site has previously been disturbed, the setback area shall be revegetated pursuant to an approved planting plan.

(2) Required setbacks shall typically vary between 25 and 50 feet; the width of the setback, determined by the community development director and/or city engineer or his or her representative, shall reflect the sensitivity of the geologic hazard area and the types and density of uses and activities proposed on or adjacent to the geologic hazard area. In determining an appropriate setback width, the community development director or his or her representative shall consider the recommendations contained in any technical report prepared by the applicant's geotechnical engineer. Building and structures shall be set back 10 feet from the edge of the setback.

(a) Setbacks shall be measured as follows:

(i) Critical landslide hazard areas: from the edges of the hazard area as identified in the geologic hazard area report;

(ii) Critical recharge areas: from the edge of the recharge area as identified in the geologic hazard area report;

(b) Setbacks may be reduced to a minimum of 10 feet when the applicant demonstrates through technical studies that the reduction will adequately protect the geologic hazard and the proposed development. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.300).

19.24.320 Geologic hazard performance standards.

(1) The following standards shall be implemented in all proposals occurring in or adjacent to geologic hazard areas:

(a) Geotechnical studies shall be prepared to identify and evaluate potential hazards and to formulate mitigation measures;

(b) Construction methods will reduce or not adversely affect geologic hazards;

(c) Site planning should minimize disruption of existing topography and natural vegetation;

(d) Disturbed areas should be replanted as soon as feasible pursuant to a previously approved landscape plan;

(e) Use of retaining walls that allow maintenance of existing natural slope areas are preferred over graded slopes;

(f) Setbacks shall be surveyed, staked, and fenced with erosion control and/or clearing limits fencing prior to any construction work, including grading and clearing, may take place on the site;

(g) Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;

(h) A master drainage plan should be prepared for large projects;

(i) Undevelopable geologic hazard areas larger than one-half acre should be placed in a separate tract;

(j) A monitoring program should be prepared for construction activities permitted in geologic hazard areas; and

(k) Development shall not increase instability or create a hazard to the site or adjacent properties, or result in a significant increase in sedimentation or erosion;

(l) The proposal will not adversely impact other critical areas;

(m) At the discretion of the community development director, peer review of geotechnical reports may be required prior to locating a critical facility within a geologic hazard area.

(2) Required setbacks shall not deny all reasonable use of property. A variance from setback width requirements may be granted by the city of Marysville upon a showing:

(a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the setback requirements; and

(b) Such setback with variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and

(c) The granting of such setback width variance will not be materially detrimental to the public welfare or injurious to the property or improvement. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.310).

Article V. General Information

19.24.330 General exemptions.

The following activities shall be exempt from the provisions of this chapter provided they are conducted using best management practices:

(1) Existing and ongoing agricultural activities, as defined in MMC 19.06.183, and any lands designated long-term commercially significant agricultural lands;

(2) Maintenance, operation and reconstruction of existing roads, streets, utilities and associated structures; provided, that reconstruction of any structures may not increase the impervious area;

(3) Normal maintenance, repair and reconstruction of residential or commercial structures; provided, that reconstruction of any structures may not increase the previous floor area;

(4) Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of critical areas shall be the minimum necessary to carry out the work or studies;

(5) Educational activities, scientific research, and outdoor recreational activities that will not have a significant effect on the habitat area;

(6) Public agency emergency activities necessary to prevent an immediate threat to public health, safety or property;

(7) Prior to the effective date of the ordinance codified in this chapter, any of the following activities that have met all conditions of approval in a timely manner and are consistent with the reasonable use provisions of this chapter:

(a) Complete applications as defined by the appropriate ordinance or by city policy;

(b) Approved plats; and

(c) Development of legally created lots which have been recorded with Snohomish County, provided they were reviewed and approved under Ordinance 1928, "Sensitive Areas," adopted December 14, 1992, or as amended at the time of final plat approval; and

(8) Minor activities not mentioned above and determined by the community development department to pose minimal risk to the public health, safety, general welfare and critical area functions. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2151 § 16, 1997; Ord. 2131, 1997. Formerly 19.24.320).

19.24.340 Permit process and application requirements.

(1) Preapplication Conference. All applicants are encouraged to meet with the community development director of the city of Marysville or his or her representative prior to submitting an application subject to these regulations. The purpose of this meeting shall be to discuss the city of Marysville's critical areas requirements, process and procedures; to review any conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methodology; to identify potential impacts and mitigation measures; and to familiarize the applicant with state and federal programs, particularly those pertaining to wetlands. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the city of Marysville.

(2) Application Requirements. The information required by this section should be coordinated with reporting requirements required by this section for any other critical areas located on the site.

(a) Prior to the issuance of a SEPA threshold determination for a proposal, a wetland determination, wetland delineation report, or fish and wildlife habitat report must be submitted to the city of Marysville for review upon request of the community development director due to inclusion of a portion or all of a site on the habitat or wetland inventory maps prepared by Snohomish County Tomorrow. The purpose of the report is to determine the extent and function of wetlands, and the extent, type, function and value of wildlife habitat on any site where regulated activities are proposed. The report will also be used by the city of Marysville to determine the appropriate wetland, or the sensitivity and appropriate classification of the habitat, appropriate buffering requirements, and potential impacts of proposed activities;

(b) In addition, wetland boundaries must be staked and flagged in the field by a qualified scientific professional employing the Washington State Wetlands Identification and Delineation Manual methodology. Field flagging must be distinguishable from other survey flagging on the site. The field flagging must be accompanied by a wetland delineation report;

(c) Applicants for activities within geologic hazard areas shall conduct technical studies to: evaluate the actual presence of geologic conditions

giving rise to geologic hazards; determine the appropriate hazard category, according to the classification of potential hazards in these regulations; evaluate the safety and appropriateness of proposed activities; and recommend appropriate construction practices, monitoring programs and other mitigation measures required to ensure achievement of the purpose and intent of these regulations. The format of any required reports shall be determined by the city of Marysville;

(d) The report of any critical area shall include the following information:

(i) Vicinity map;

(ii) A map showing:

(A) Site boundary, property lines, and roads;

(B) Internal property lines, rights-of-way, easements, etc.;

(C) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;

(D) Contours at the smallest readily available intervals, preferably at five-foot intervals; and

(E) For large (50 acres or larger) or complex projects with wetlands or habitat areas, an aerial photo with overlays displaying the site boundaries and wetland delineation or habitat area(s) may be required. Generally, an orthophotograph at a scale of one inch equals 400 feet or greater (such as one inch equals 200 feet) should be used. If an orthophotograph is not available, the center of a small scale (e.g., one inch equals 2,000 feet) aerial photograph enlarged to one inch equals 400 feet may be used;

(iii) The report for any critical area must describe:

(A) Locational information including legal description and address;

(B) All natural and manmade features within 150 feet of the site boundary;

(C) General site conditions including topography, acreage, and water bodies or wetlands; and

(D) Identification of any areas that have previously been disturbed or degraded by human activity or natural processes;

(e) In addition to the general report requirements, a report on wetlands shall include the following information:

(i) Delineated wetland boundary;

(ii) The wetland boundary must be accurately drawn at an appropriate engineering scale such that information shown is not cramped or illegible. The drawing shall be prepared by a surveyor. Generally, a scale of one foot equals 40 feet or greater (such as one inch equals 20 feet) should be used. Existing features must be distinguished from proposed features;

(iii) Site designated on the wetlands areas maps prepared for Snohomish County Tomorrow, July 1991;

(iv) Hydrologic mapping showing patterns of water movement into, through, and out of the site area;

(v) Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets;

(vi) Field data sheets from the federal manual, numbered to correspond with sample site locations as staked and flagged in the field; and describe:

(vii) Specific descriptions of plant communities, soils and hydrology;

(viii) A summary of existing wetland function and value; and

(ix) A summary of proposed wetland and buffer alterations, impacts, and the need for the alterations as proposed. Potential impacts may include but are not limited to loss of flood storage potential, loss of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on associated wetland or water resources. If alteration of a Category I, II, III, or VI wetland is proposed, a wetland mitigation plan is required according to the standards of MMC 19.24.140;

(f) In addition to the general report requirements, a report on fish and wildlife habitats shall include the following information. The level of detail contained in the report shall generally reflect the size and complexity of the proposal and the function and value of the habitat. The community development department may require field studies at the applicant's expense in appropriate cases:

(i) A map of vegetative cover types, reflecting the general boundaries of different plant communities on the site;

(ii) A description of the species typically associated with the cover types, including an identification of any critical wildlife species that might expected to be found;

(iii) The results of searches of DNB's Natural Heritage and WDFW's Nongame Data System databases, if available; and

(iv) Additional information on species occurrence available from the city of Marysville or Snohomish County; and describe:

(v) The layers, diversity and variety of habitat found on the site;

(vi) Identification of edges between habitat types and any species commonly associated with that habitat;

(vii) The location of any migration or movement corridors;

(viii) A narrative summary of existing habitat functions and values; and

(ix) A summary of proposed habitat and buffer alterations, impacts and mitigation. Potential impacts may include but are not limited to clearing of vegetation, fragmentation of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on wetlands or water resources;

(g) In addition to the general report requirements, a report on geologic hazards shall include the following information:

(i) A characterization of soils, geology and drainage;

(ii) A characterization of ground water conditions including the presence of any public or private wells in the immediate vicinity; and

(iii) An analysis of proposed clearing, grading and construction activities, including construction scheduling; potential direct and indirect, on-site and off-site impacts from the development; and proposed mitigation measures, including any special construction techniques, monitoring or inspection program, erosion or sedimentation programs (during and after construction), and surface water management controls.

In order to determine the geologic hazard classification project, applicants shall also include in their report to the city of Marysville a description prepared by a qualified scientific professional that reviews the site history and results of a surface reconnaissance. The purpose of these regulations is to require a level of study and analysis commensurate with potential risks associated with geologic hazards on particular sites and for particular proposals.

Depending on the particular geologic hazard, geologic hydrologic, and topographic studies may be required. The appropriate report(s) and level of analysis shall be determined using the following guidelines:

(A) Moderate Landslide Hazard Areas.

1. Review site history and available information;

2. Conduct a surface reconnaissance of the site and adjacent areas; and

3. Conduct subsurface exploration if indicated by subsections (2)(g)(iii)(A)(1) and (2) of this section as determined by the applicant's qualified scientific professional and the city;

(B) High Landslide Hazard Areas.

1. Review site history and available information;

2. Conduct a surface reconnaissance of the site and adjacent areas;

3. Conduct subsurface exploration suitable to the site and proposal to assess geohydrologic conditions;

4. Recommend surface water management controls during construction and operation;

5. Proposed construction scheduling; and

6. Recommendations for site monitoring and inspection during construction;

(C) Very High Landslide Hazard Areas.

1. Development is prohibited in these areas;

(D) Moderate and High Erosion Hazard Areas.

1. Review site history and available information;

2. Conduct a surface reconnaissance of the site and adjacent areas; and

3. Identify surface water management, erosion and sediment controls appropriate to the site and proposal;

(E) Seismic Hazard Areas.

1. For one- and two-story single-family structures, conduct an evaluation of site response and liquefaction potential based on the performance of similar structures under similar foundation conditions; and

2. For all other proposals, conduct an evaluation of site response and liquefaction potential including sufficient subsurface exploration to provide a site coefficient (S) for use in the static lateral force procedure described in the Uniform Building Code.

(3) Permit Process. This section is not intended to create a separate permit process for development proposals. To the extent possible, the city of Marysville shall consolidate and integrate the review and processing of critical area-related aspects of proposals with other land use and environmental considerations and approvals. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.330).

19.24.350 Selection of qualified scientific professional and city review of report.

For the purposes of this chapter, qualified scientific professionals not licensed by the state of Washington for the activities they are to perform in evaluation of critical areas shall be reviewed by and their names appear on an approved list prepared by the city of Marysville.

(1) Biannually the city shall advertise requests for qualifications for qualified scientific professionals for each area established by this chapter: wetlands, fish habitat areas/streams, wildlife habitat areas, and geologic hazard areas. The community development director shall establish a panel to review the firm and individual's qualifications and references. Each qualified scientific professional shall have completed at least a four-year degree program and meet the minimum requirements contained within the definitions section. The panel shall recommend to the community development director the list of consultants, as selected by the panel, that are qualified to evaluate each type of critical area identified in this chapter. There shall be a minimum of 12 qualified scientific professionals for each of the three categories. The list shall be adopted within 60 days of the adoption of the ordinance codified in this chapter and 60 days of January 1st biannually thereafter.

(2) The adopted lists of qualified scientific professionals shall be available at the community development department.

(3) Reports meeting the criteria as required by this chapter, submitted by a qualified scientific professional, included on the adopted list should be accepted by the city of Marysville. However, the city retains the right to have a separate review of the reports, and at its discretion may retain a qualified scientific professional at the city's expense to review and confirm the applicant's reports, studies, and plans. Applicants may choose to use other consultants which they feel meet the definition of qualified scientific professionals given; however, the city retains the right to have a separate review of their reports, and at its discretion may retain a qualified scientific professional at the applicant's expense to review and confirm the applicant's reports, studies, and plans. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.340).

19.24.360 Land divisions.

All proposed divisions of land which include regulated critical areas shall comply with the following procedures and development standards:

(1) New lots shall contain at least one building site, including access, that is suitable for development and is not within the regulated critical area or it's associated buffer or setback.

(2) A regulated critical area and its associated buffer or setback shall be placed in a separate tract on which development is prohibited, protected by execution of an easement given to the city of Marysville, or dedicated to the city of Marysville at the discretion of the city of Marysville. The location and limitations associated with the critical area and its associated buffer or setback shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the Snohomish County auditor. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.350).

19.24.370 On-site density transfer for critical areas.

(1) An owner of a residential site or property containing critical areas may be permitted to transfer the density attributable to the critical area and associated buffer area or setback to another noncritical portion of the same site or property, subject to the limitations of this section and other applicable regulations. In the case of streams, only the density attributable to the buffer may be transferred.

(2) Up to 100 percent of the density that could be achieved on the critical area and buffer portion of the site, excluding stream channels, can be transferred to the noncritical area portion, subject to:

(a) The density limitations of the underlying zone must be applied;

(b) The bulk and dimensional standards of the next higher zoning classification may be utilized to accommodate the transfers in density;

(c) The noncritical, nonbuffer portion of the site is not constrained by another environmentally critical areas regulated by this code.

(3) An on-site density transfer shall meet the requirements and follow the procedures of MMC Title 20, Subdivisions. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.360).

19.24.380 Fencing and signage requirements.

Wetland fencing and signage adjacent to a regulated wetland or stream corridor shall be required. Two rail fencing shall be constructed with pressure treated posts and rails and cemented into the ground with either cedar or treated rails. Alternative materials may be used subject to approval by the city. Signs designating the presence of an environmentally sensitive area shall be posted along the

buffer boundary. The signs shall be posted at a minimum rate of one every 100 lineal feet. (Ord. 2571 § 2, 2005).

19.24.390 Building setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

(1) Landscaping;

(2) Uncovered decks;

(3) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and

(4) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations as adopted. (Ord. 2571 § 2, 2005).

19.24.400 General procedural provisions.

(1) Interpretation and Conflicts. Any question regarding interpretation of these regulations shall be resolved pursuant to the procedures set forth in Chapter 2.70 MMC, relating to the hearing examiner.

(2) Appeals from Permit Decisions. Appeals from permit decisions shall be governed by the procedures set forth in Chapter 2.70 MMC, relating to the hearing examiner. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.370).

19.24.410 Penalties and enforcement.

Penalty and enforcement provided in this section shall not be deemed exclusive, and the city may pursue any remedy or relief it deems appropriate.

(1) Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed $1,000. It shall be a separate offense for each and every day or portion thereof during which any violation of any provisions of this chapter is committed.

(2) Any person, firm, corporation, or association of any agent thereof who violates any of the provisions of this chapter shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to an equivalent or improved condition prior to the violation occurring. If an equivalent condition cannot be provided, the violator shall be subject to a fine in an amount equal to the value to the damage to the environmentally critical area, determined using best available methods of calculating the value of vegetation, land, and water resources.

(3) Restoration shall include, but not be limited to, the replacement of all improperly removed groundcover with species similar to those which were removed or other approved species such that the biological and habitat values will be replaced, improper fill removed, and slope stabilized. Studies by the qualified experts shall be submitted to determine the conditions which were likely to exist on the lot prior to the illegal alteration.

(4) Restoration shall also include installation and maintenance of interim and emergency erosion control measures until such time as the restored groundcover and vegetation reach sufficient maturation to function in compliance with the performance standards adopted by the city.

(5) The city shall stop work on any existing permits and halt the issuance of any or all future permits or approvals for any activity which violates the provisions of this chapter until the property is fully restored in compliance with this chapter and all penalties are paid.

(6) Notwithstanding the other provisions provided in this chapter, anything done contrary to the provisions of this chapter or the failure to comply with the provisions of this chapter shall be and the same is hereby declared to be a public nuisance.

The city is authorized to apply to any court of competent jurisdiction, for any such court, upon hearing and for cause shown, may grant a preliminary, temporary or permanent injunction restraining any person, firm, and/or corporation from violating any of the provisions of this chapter and compelling compliance with the provisions thereof. The violator shall comply with the injunction and pay all cost incurred by the city in seeking the injunction. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.380).

19.24.420 General savings provisions – Reasonable use determination.

(1) The standards and regulations of this section are not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. If an applicant demonstrates to the satisfaction of the city of Marysville that strict application of these standards and the utilization of cluster techniques, planned unit development, and transfer of development rights would deny all reasonable economic use of its property, development may be permitted sub-

ject to appropriate conditions, derived from this chapter, as determined by the community development director.

(2) An applicant for relief from strict application of these standards shall demonstrate the following:

(a) That no reasonable use with less impact on the critical area and buffer or setback is feasible and reasonable; and

(b) That there is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors; and

(c) That the proposed activities, as conditioned, will result in the minimum possible impacts to critical area and buffer or setback; and

(d) That all reasonable mitigation measures have been implemented or assured; and

(e) That all provisions of the city's regulations allowing density transfer on-site and off-site have been considered; and

(f) That the inability to derive reasonable economic use is not the result of the applicant's actions. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.390).

19.24.430 No special duty created.

(1) It is the purpose of this chapter to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. No provisions or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

(2) Nothing contained in this chapter is intended to be, nor shall be, construed to create or from the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officers, agents or employees. (Ord. 2571 § 2, 2005; Ord. 2280 § 1, 1999; Ord. 2131, 1997. Formerly 19.24.400).

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Chapter 19.26

RESIDENTIAL DENSITY INCENTIVES

Sections:

19.26.010 Purpose.
19.26.020 Permitted locations of residential density incentives.
19.26.030 Public benefits and density incentives.
19.26.040 Density bonus recreation features.
19.26.050 Rules for calculating total permitted dwelling units.
19.26.060 Review process.
19.26.070 Minor adjustments in final site plans.
19.26.080 Applicability of development standards.

19.26.010 Purpose.

The purpose of this chapter is to provide density incentives to developers of residential lands in exchange for public benefits to help achieve comprehensive plan goals of affordable housing, open space protection, historic preservation and energy conservation, by:

(1) Defining in quantified terms the public benefits that can be used to earn density incentives;

(2) Providing rules and formulae for computing density incentives earned by each benefit;

(3) Providing a method to realize the development potential of sites containing unique features of size, topography, environmental features or shape; and

(4) Providing a review process to allow evaluation of proposed density increases and the public benefits offered to earn them, and to give the public opportunities to review and comment. (Ord. 2131, 1997).

19.26.020 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; and

(3) In MU, CB, GC and DC zones. (Ord. 2411 § 1, 2002; Ord. 2131, 1997).

19.26.030 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 (5) 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.

(2) Bonus dwelling units may be earned through any combination of the listed public benefits.

(3) Residential development 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 (5) 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 guidelines for affordable housing bonuses, including the establishment of rental levels, housing prices and asset limitations, will be updated and adopted annually by the community development department. The update shall occur no later than June 30th of each year.

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

Benefit	Density Incentive
1. Affordable Housing 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). 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.	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.

Benefit		Density Incentive
	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). 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.	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.
	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.
2.	Open Space, Trails and Parks	
	a. Dedication of park site or trail right-of-way meeting city of Marysville location and size standards for neighborhood, community or regional park, or trail, and accepted by the city.	1.5 bonus unit per acre of park area or quarter-mile of trail exceeding the minimum requirements outlined in other sections of this title.
	b. Improvement of dedicated park site to city of Marysville standards for developed parks.	Two bonus units per acre of park 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 quarter-mile of trail constructed to city standard for pedestrian trails; or 2.5 bonus units per 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.	.5 bonus unit per acre of open space.
3.	Historic Preservation	
	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.	.5 bonus unit per acre of historic site.
	b. Restoration of a site or structure designated as an historic landmark.	.5 bonus unit per acre of site or 1,000 square feet of floor area of building restored.

Benefit	**Density Incentive**
4. Locational/Mixed Use a. Developments located within a quarter-mile of transit routes, and within one mile of fire and police stations, medical, shopping, and other community services.	10 percent increase above the base density of the zone.
b. Mixed use developments over one acre in size having a combination of commercial and residential uses.	10 percent increase above the base density of the zone.
5. Storm Drainage Facilities Dual use retention/detention facilities a. Developments that incorporate active recreation facilities that utilize the storm water facility tract dedicated to the city of Marysville.	100 percent transfer of the dedicated tract area towards the base density of the zone.
b. Developments that incorporate passive recreation facilities that utilize the storm water facility tract dedicated to the city of Marysville.	50 percent transfer of the dedicated tract area towards the base density of the zone.
6. Project Design 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 PRD approval. Density increases granted which were based upon preservation of existing trees shall be forfeited if such trees are removed between the time of preliminary and final approval and issuance of building permits.	Five percent increase above the base density of the zone.
b. Retention or creation of a perimeter buffer, composed of existing trees and vegetation, additional plantings, and/or installation of fencing or landscaping, 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).
c. Utilization of a mix of building plans which emphasize the house more than the garage. Plan mix and design types must be approved prior to approval of each development phase as part of the final site plan or final plat.	Five percent increase above the base density of the zone. (Bonus when not already required by the city code.)

(Ord. 2526 § 14, 2004; Ord. 2481 § 1, 2003; Ord. 2411 § 2, 2002; Ord. 2298 § 23, 1999; Ord. 2131, 1997).

19.26.040 Density bonus recreation features.

(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 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 perimeter of the recreation area.

(c) Ponds used as recreation areas shall have a curvilinear design with a shallow water safety bench. (Ord. 2481 § 2, 2003).

19.26.050 Rules for calculating total permitted dwelling units.

The total dwelling units permitted through RDI review shall be calculated using the following steps:

(1) Calculate the number of dwellings permitted by the base density of the site in accordance with Chapter 19.12 MMC;

(2) Calculate the total number of bonus dwelling units earned by providing the public benefits listed in MMC 19.26.040;

(3) Add the number of bonus dwelling units earned to the number of dwelling units permitted by the base density;

(4) Round fractional dwelling units down to the nearest whole number; and

(5) On sites with more than one zone or zone density, the maximum density shall be calculated for the site area of each zone. Bonus units may be reallocated within the zone in the same manner set forth for base units in MMC 19.12.180. (Ord. 2131, 1997).

19.26.060 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, conditional use permit or commercial building permit;

(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 RDI proposal shall be subject to the decision criteria for conditional use permits outlined in Chapter 19.52 MMC and to the procedures set forth for planning director review in this title; 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 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. (Ord. 2131, 1997).

19.26.070 Minor adjustments in final site plans.

When issuing building permits in an approved RDI development, the department may allow minor adjustments in the approved site plan involving the location or dimensions of buildings or landscaping, provided such adjustments shall not:

(1) Increase the number of dwelling units;

(2) Decrease the amount of perimeter landscaping (if any);

(3) Decrease residential parking facilities (unless the number of dwelling units is decreased);

(4) Locate structures closer to any site boundary line; or

(5) Change the locations of any points of ingress and egress to the site. (Ord. 2131, 1997).

19.26.080 Applicability of development standards.

(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 19.16 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 planning 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 19.18 MMC.

(4) RDI developments shall provide on-site recreation space at the levels required in Chapter 19.14 MMC. (Ord. 2131, 1997).

Chapter 19.28

CLEARING, GRADING, FILLING, AND EROSION CONTROL

Sections:

19.28.010 Purpose.
19.28.020 Clearing and grading permit.
19.28.030 Minimum standards.
19.28.040 Temporary erosion and sediment control plan.
19.28.050 Temporary restrictions on clearing and grading.
19.28.060 Maintenance and security.
19.28.070 Inspections.
19.28.080 Completion of the work.
19.28.090 Construction specifications.

19.28.010 Purpose.

The purpose of these standards is to ensure that all construction in the city of Marysville is undertaken with facilities and measures as necessary to minimize the erosion of soils and siltation of water bodies and public/private drainage facilities. The goal of the erosion control practices specified herein is for no sediment to leave the construction site or impact downstream or adjacent properties or the environment in general. (Ord. 2131, 1997).

19.28.020 Clearing and grading permit.

(1) A clearing and grading permit is required for a project involving any of the following, except as provided for in subsection (2) of this section. In applying this section, the total proposal must be considered.

(a) Any clearing, filling, or excavation in an environmentally sensitive area or regulated buffer.

(b) Fill and/or excavation totaling 50 cubic yards. Quantities of fill and excavation are separately calculated and then added together, even if excavated material is used as fill on the same site.

(c) Over 1,000 square feet of clearing, as measured at the ground level. Clearing includes disturbance of over 1,000 square feet at grade due to felling or topping of trees.

(2) The following activities are exempt from the requirements for a clearing and grading permit:

(a) Agricultural management of existing farmed areas.

(b) Routine landscape maintenance of existing landscaped areas on developed lots and other activities associated with maintaining an already established landscape. For lots developed prior to the adoption of sensitive area regulations with landscaping in what are now protected areas, rou-

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tine landscaping maintenance can occur without a clearing and grading permit provided the soil level is not increased.

(c) Work needed to correct an immediate danger to life or property in an emergency situation as declared by the mayor or the city administrator or his/her designee.

(d) Cemetery graves.

(e) Work, when approved by the city engineer, in an isolated self-contained area, if there is no danger to public or private property.

(3) The clearing and grading permit shall be issued by the engineering department and shall be effective for one year but may, with cause shown, be extended for an additional one-year period. The fee schedule for the review of plans is contained in MMC 14.07.005A and the permit fee amount will be based on Table A-33-B of the Appendix Chapter 33 of the current UBC.

(4) In addition to satisfying all requirements of Chapters 14.15, 14.16 and 14.17 MMC, permittees shall comply with the following conditions which shall apply to all grading permits:

(a) Notify the city 48 hours before commencing any land disturbing activity.

(b) Notify the city of completion of any control measures within 48 hours after their completion.

(c) Obtain permission in writing from the city prior to modifying any of the plans.

(d) Install all control measures as identified in the approved plans.

(e) Maintain all road drainage systems, stormwater drainage systems, control measures, and other facilities identified in the plans.

(f) Repair siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities.

(g) Inspect the erosion construction control measures at least once each week during construction after each rain of 0.5 inch or more (over a 24-hour period), and immediately make any needed repairs.

(h) Allow the city to enter the site for the purpose of inspecting compliance with the plans or for performing any work necessary to bring the site into compliance with the plans.

(i) Keep an up-to-date, approved copy of the plans on the site.

(j) Ensure that all workmanship and materials are in accordance with city of Marysville standards and the most current edition of the State of Washington Standard Specifications for Road, Bridge and Municipal Construction.

(5) Construction within environmentally sensitive areas shall be in compliance with Chapter 19.24 MMC and shall be subject to the review of the planning director. (Ord. 2414 § 1, 2002; Ord. 2246 § 1, 1999; Ord. 2131, 1997).

19.28.030 Minimum standards.

(1) Siltation and Erosion Control. Siltation and erosion control shall occur and be performed in accordance with Chapter 14.15 MMC.

(2) Grading. The following are the minimum standards for grading unless otherwise modified by an approved grading plan:

(a) Grading shall not contribute to or create landslides, accelerated soil creep, or settlement of soils.

(b) Natural land and water features, vegetation, drainage and other natural features of the site shall be reasonably preserved.

(c) Grading shall not create or contribute to flooding, erosion, increased turbidity, or siltation of a watercourse.

(d) Groundcover and tree disturbance shall be minimized.

(e) Grading operations shall be conducted so as to expose the smallest practical area to erosion for the least possible time.

(f) Grading shall not divert existing watercourses.

(3) Cuts and Fills. The following are the minimum standards for cutting and filling slopes; provided, that these provisions may be waived by the city engineer for grading operations of a minor nature:

(a) Cut slopes shall be no steeper than is safe for the intended use. Cut slopes greater than five feet in height shall be no steeper than two horizontal to one vertical (2:1), except where approved retaining walls are to be installed.

(b) Filling should only occur where the ground surface has been prepared by removal of vegetation and other unsuitable materials or preparation of steps where natural slopes are steeper than five to one (5:1). Fill slopes should not be constructed on natural slopes greater than two to one (2:1).

(c) Fill slopes shall be no steeper than is safe for the intended use. Fill slopes greater than five feet in height shall be no steeper than two horizontal to one vertical (2:1), except where approved retaining wall are engineered and installed.

(d) Steeper cut/fills may be permitted if supported by an approved soils/geological report.

(e) Cut and fill slopes shall not encroach upon adjoining property without written approval of the adjacent owner.

(f) Cut and fill slopes shall be provided with subsurface and surface drainage provisions to approved discharge locations as necessary to retain the slope.

(g) The faces of slopes shall be prepared and maintained to control erosion. Check dams, riprap, plantings, terraces, diversion ditches, sedimentation ponds, straw bales, or other methods shall be employed where necessary to control erosion and provide safety. The erosion control measures shall be initiated or installed as soon as possible and shall be maintained by the owner.

(h) Fill materials used as a structural fill shall be compacted in accordance with the requirements applicable to the future use.

(4) Sensitive Areas. No land-disturbing activity shall be permitted in a regulated sensitive area, except as otherwise allowed by applicable laws and permits.

(5) Clean Up. Persons and/or firms engaged in clearing, grading, and filling, or drainage activities shall be responsible for the maintenance of work areas free of debris or other material that may cause damage to or siltation of existing or new facilities or have the potential of creating a safety hazard.

(6) Dust Suppression. Dust from clearing, grading and other construction activities shall be minimized at all times. Impervious surfaces on or near the construction area shall be swept, vacuumed, or otherwise maintained to suppress dust entrainment. Any dust suppressants used shall be approved by the director. Petrochemical dust suppressants are prohibited. (Ord. 2246 § 2, 1999; Ord. 2131, 1997).

19.28.040 Temporary erosion and sediment control plan.

Temporary erosion and sediment control shall be in accordance with the requirements contained in Chapter 14.15 MMC in a small parcel or large parcel erosion and sediment control plan. (Ord. 2246 § 3, 1999).

19.28.050 Temporary restrictions on clearing and grading.

(1) In the areas listed below, clearing and grading may be permitted to continue or to be initiated during the rainy season, only if the director grants specific approval per subsection (3) of this section. The rainy season is defined as November 1st through April 30th, unless the director modifies these dates based on weather patterns and forecasts. In determining whether to permit rainy season construction, the director shall consult with the public works department. Such consultation shall occur on a regular basis to ensure consistent implementation of the city's environmental policies and shall occur as needed regarding individual projects on specific sites.

(a) Developments within the Quilceda/Allen Creek watershed occurring on the Getchell hillsides within Planning Area No. 4: East Sunnyside/Whiskey Ridge, and Planning Area No. 5: Cedarcrest/Getchell Hill. The planning area boundaries are defined by the Marysville comprehensive plan.

(2) If clearing and grading is prohibited during the rainy season, building construction can nonetheless proceed as long as necessary clearing and grading is complete and effective erosion control is in place and effectively maintained.

(3) The director shall grant approval to initiate or continue clearing or grading activity in the areas listed in subsection (1) of this section, during the rainy season only if, based on an evaluation of site and project conditions, the director determines the proposal ensures slope stability and adequately protects receiving waters from increased erosion and sedimentation during construction. The evaluation of site and project conditions, shall include, but not be limited to, an evaluation of the following:

(a) Whether the clearing and grading is near completion if the project is already underway;

(b) Average existing slope of the site;

(c) Quantity of proposed cut and/or fill;

(d) Classification of the predominant soils and their erosion and runoff potential;

(e) Proposed deep utility installation;

(f) Hydraulic connection of the site to features that are sensitive to the impacts of erosion/sedimentation;

(g) Ability to phase clearing and grading and to create a feasible clearing and grading schedule;

(h) Extent of clearing and grading BMPs proposed, and if the project is underway, the project's track record at controlling erosion and sedimentation.

(4) Determinations under subsection (3) of this section shall be made by the director on a site-specific basis. However:

(a) Rainy season construction generally will be prohibited for proposals requiring large-scale clearing and grading.

(b) Rainy season construction generally will be approved for smaller-scale clearing and grading

proposals that have limited shallow utility installation and are on sites with less than 15 percent slopes, predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features.

(c) Rainy season construction will be approved if extraordinary BMPs to control erosion/sedimentation and slope stability are proposed when:

(i) Moderate scale clearing and grading is proposed;

(ii) The proposal involves deep utility installation; or

(iii) The proposal is located on sites with greater than 15 percent slopes, soils with a high runoff potential, or sites hydraulically near a sediment/erosion-sensitive feature.

(5) Whenever rainy season clearing and grading is allowed, the applicant may be required to implement extraordinary BMPs if the BMPs that are initially implemented are not working. If the permit was issued in the dry season, and work is allowed to continue in the rainy season, the city may modify the previously issued permit to require additional, extraordinary BMPs. Extraordinary BMPs may include, but not be limited to:

(a) Performance monitoring to determine compliance with state water quality standards, or more stringent standards if adopted by the city.

(b) Funding additional city inspection time, up to a full-time inspector.

(c) Shutting down work if necessary to control erosion and sedimentation.

(d) Construction of additional siltation/sedimentation ponds.

(e) Use of a series of temporary filter vaults.

(f) Use of high quality catch basin inserts to filter runoff.

(g) Use of erosion control blankets, nets, or mats in addition to or in conjunction with straw mulch.

(6) If a clearing and grading permit is issued, and the city subsequently issues three stop work orders or correction notices for insufficient erosion and sedimentation control, the permit will be suspended until the dry season, or, if violations occurred in the dry season, until weather conditions are favorable and effective erosion and sedimentation control is in place.

(7) The director has the authority to temporarily stop clearing and grading during periods of heavy rain.

(8) When clearing and grading is suspended during the rainy season or interrupted at any time of the year due to heavy rain or for other reasons, the permittee shall stabilize the site and maintain the erosion control BMPs. (Ord. 2131, 1997).

19.28.060 Maintenance and security.

(1) A maintenance schedule of constructed private facilities shall be developed for the life of any facilities and measures implemented pursuant to these standards and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This schedule shall be included with all required plans and permits.

(2) The city engineer may require the applicant to furnish security in the form of a bond, cash escrow account, an irrevocable letter of credit, or other security which may be acceptable to the city in its sole discretion, in an amount determined by the city engineer to be sufficient to reimburse the city if it should become necessary for the city to enter the property to correct conditions relating to soil instability, erosion, or environmental damage caused by lack of or improper completion of the work. (Ord. 2131, 1997).

19.28.070 Inspections.

Prior to any clearing, grading, filling, and/or drainage facility construction, the contractor may be required to conduct a preconstruction conference with the city's engineering construction inspector to coordinate the project.

(1) All projects which include clearing, grading, filling or drainage shall be subject to inspection by the city engineer or his designee, who shall be granted reasonable right of entry to the work site by the permittee. When required by the city engineer, special inspection of the grading operations and special testing shall be performed by qualified professionals employed by the permittee. Inspections in conjunction with hydraulic permits will be performed and enforced by the Washington State Department of Fisheries or Wildlife.

(2) Each site that has an approved grading, erosion and sediment control or other required plans must be inspected as necessary to ensure that the sediment control measures are installed and effectively maintained in compliance with the approved plan and permit requirements. Where applicable, the permittee must obtain inspection by the city at the following stages:

(a) Following the installation of sediment control measures or practices and prior to any other land-disturbing activity;

(b) During the construction of sediment basins or stormwater management structures;

(c) During rough grading, including hauling of imported or wasted materials;

(d) Prior to the removal or modification of any sediment control measure or facility; and

(e) Upon completion of final grading, including establishment of groundcover and planting, installation of all vegetative measures, and all other work in accordance with an approved plan and/or permit.

(3) The permittee may secure the services of an engineer, subject to the approval of the city engineer, to inspect the construction of the facilities and provide the city with a fully documented certification that all construction is done in accordance with the provisions of an approved grading, erosion and sedimentation control or other required plan, applicable rules, regulations, permit conditions and specifications. If inspection certification is provided by the city, the permit may be waived. In these cases the city shall be notified at the required inspection points and may make spot inspections. The engineer shall use the "Engineer's Construction Inspection Report" form for certification of the construction or other similar form approved by the city engineer. (Ord. 2414 § 2, 2002; Ord. 2246 § 4, 1999; Ord. 2131, 1997).

19.28.080 Completion of the work.

(1) Construction Changes. Whenever changes must be made to the original, approved plan, the changes shall be submitted in writing to and approved by the city engineer in advance of the construction of those changes.

(2) Final Reports. Upon completion of the rough grading and at the final completion of the work, the city engineer may require the following reports, drawings, and supplements thereto to be prepared and submitted by the owner and/or an appropriate qualified professional approved by the city engineer:

(a) An as-built grading plan, including original ground surface elevations, final surface elevations, lot drainage patterns, and locations and elevations of all surface and subsurface drainage facilities.

(b) A soils grading and/or geologic grading report, including locations and elevations of field density tests and geologic features, summaries of field and other laboratory tests, and other substantiating data and comments or any other changes made during grading and their effect on the recommendations made in the approved grading plan.

(3) Notification of Completion. The permittee or his/her agent shall notify the city engineer when the grading operation is ready for final inspection. Final approval shall not be given until all work has been completed in accordance with the final approved grading, erosion sedimentation control and other required plans, and the required reports have been submitted and accepted. (Ord. 2131, 1997).

19.28.090 Construction specifications.

Construction shall be in accordance with the procedures and specifications contained in the city's drainage and erosion control standards as adopted under Chapter 14.15 MMC. (Ord. 2246 § 5, 1999).

Chapter 19.32

HOME OCCUPATIONS

Sections:

19.32.010 Purpose.
19.32.020 Home occupation standards.
19.32.030 Day care standards.

19.32.010 Purpose.

The purpose of this chapter is to allow small scale commercial occupations incidental to residential uses to be located in residences while guaranteeing all residents freedom from excessive noise, traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential neighborhoods. (Ord. 2131, 1997).

19.32.020 Home occupation standards.

(1) Home occupations are permitted as an accessory use to the residential use of a property only when all of the following conditions are met:

(a) The total area devoted to all home occupation(s) shall not exceed 25 percent of the floor area of the dwelling unit or 600 square feet, whichever is less;

(b) The home occupation may be located in the principal dwelling or in an accessory structure. If located in an accessory structure, the area devoted to the occupation, as described in subsection (1)(a) of this section, shall be based upon the floor area of the dwelling only;

(c) Not more than one person outside of the family shall be employed on the premises;

(d) The home occupation shall in no way alter the normal residential character of the premises;

(e) The home occupation(s) shall not use electrical or mechanical equipment that results in:

(i) A change to the fire rating of the structure(s) used for the home occupation(s),

(ii) Visual or audible interference in radio or television receivers, or electronic equipment located off-premises, or

(iii) Fluctuations in line voltage off-premises;

(f) No equipment or material may be stored, altered or repaired on any exterior portion of the premises;

(g) Sales shall be limited to merchandise which is produced on the premises and/or mail order and telephone sales with off-site delivery;

(h) Services to patrons shall be arranged by appointment or provided off-site;

(i) The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:

(i) No more than one such vehicle shall be allowed,

(ii) Such vehicle shall not park within any required setback areas of the lot or on adjacent streets, and

(iii) Such vehicle shall not exceed a weight capacity of one ton;

(j) Signs in connection with the home occupation shall comply with the restrictions of BMC 19.20.200(1)(h);

(k) No sales or services will be conducted on the premises which will generate more than 10 average daily round trips per day by customers.

(2) A home occupation permit issued to one person shall not be transferable to any other person; nor shall a home occupation permit be valid at any other address than the one listed on the permit.

(3) In granting approval for a home occupation, the reviewing official may attach additional conditions to insure the home occupation will be in harmony with, and not detrimental to, the character of the residential neighborhood.

(4) Any home occupation authorized under the provisions of this chapter shall be open to inspection and review at all reasonable times by enforcement officials for purposes of verifying compliance with the conditions of approval and other provisions of this title. (Ord. 2131, 1997).

19.32.030 Day care standards.

Applications for business licenses for day care 1 facilities, which include family day care homes, adult day cares, and adult family care facilities shall be processed through the procedures for home occupation. However, standards for these uses are those listed herein:

(1) Home day care and adult family care facilities shall meet the state licensing requirements, including those pertaining to building, fire safety and health codes. A copy of the required state license shall be furnished by the applicant with the business license application.

(2) There shall be no change in the outside appearance of the residence, other than one flat, unlighted sign, not exceeding six square feet, mounted flush against the building.

(3) Family day care services are provided in the primary residential dwelling unit.

(4) Where outdoor recreation facilities are provided for children in day care facilities, they shall be screened by fence at least four feet high where abutting residentially zoned property.

(5) The facility provides a safe passenger loading area.

(6) The day care provider has provided written notification to immediately adjoining property owners of the intent to locate and maintain a facility. (Ord. 2426 § 1, 2002).

Chapter 19.34

ACCESSORY DWELLING UNITS

Sections:

19.34.010 Purpose.
19.34.020 Accessory dwelling unit standards.

19.34.010 Purpose.

The purpose of this chapter is to allow for secondary dwelling units to be established which are incidental to the primary residential use of a single-family residence, while ensuring compatibility with surrounding single-family uses. (Ord. 2131, 1997).

19.34.020 Accessory dwelling unit standards.

In the zones in which an accessory dwelling is listed as a permitted use, the planning director shall review all proposals to establish an accessory dwelling unit. The following standards and regulations shall apply to all proposed accessory dwelling units:

(1) An owner-occupant of a single-family dwelling unit may establish only one accessory unit, which may be attached to the single-family dwelling, or detached in an accessory building. An accessory dwelling unit may not be located on a lot on which a temporary dwelling, as defined in Chapter 19.44 MMC, is located.

(2) The single-family dwelling unit must be owner-occupied on the date of application and remain owner-occupied for as long as the accessory unit exists. A covenant shall be required which is signed by the owner, and recorded against the property as part of the application process.

(3) The floor area of the accessory dwelling unit shall not exceed 35 percent of the total floor area of the original single-family dwelling. In no case shall the accessory dwelling unit be less than 300 square feet in size, or have more than two bedrooms. Floor areas shall be exclusive of garages, porches, or unfinished basements.

(4) The architectural character of the single-family dwelling shall be preserved. Exterior materials, roof form, and window spacing and proportions shall match that of the existing single-family dwelling. Only one main entrance shall be permitted on the front (street face) of the dwelling; provided, that this limitation shall not affect the eligibility of a residential structure which has more than one entrance on the front or street side on the effective date of the ordinance codified in this chapter.

(5) One off-street parking space shall be provided and designated for the accessory apartment (in addition to the two off-street parking spaces required for the primary single-family dwelling unit). Driveways may be counted as one parking space but no parking areas other than driveways shall be created in front yards. When the property abuts an alley, the off-street parking space for the accessory dwelling unit shall gain access from the alley.

(6) An owner-occupant of a single-family dwelling with an accessory apartment shall file, on a form available from the planning department, a declaration of owner occupancy with the planning department prior to issuance of the building permit for the accessory apartment and shall renew the declaration annually. The initial declaration of owner occupancy shall be recorded with the county auditor prior to filing the declaration with the planning department.

(7) The owner-occupant(s) may reside in the single-family dwelling unit or the accessory dwelling unit.

(8) In addition to the conditions which may be imposed by the planning director, all accessory dwelling units shall also be subject to the condition that such a permit will automatically expire whenever:

(a) The accessory dwelling unit is substantially altered and is thus no longer in conformance with the plans approved by both the planning director and the building official; or

(b) The subject lot ceases to maintain at least three off-street parking spaces; or

(c) The applicant ceases to own or reside in either the principal or the accessory dwelling unit. (Ord. 2415 § 1, 2002; Ord. 2131, 1997).

Chapter 19.36

BED AND BREAKFASTS

Sections:

19.36.010 Purpose.
19.36.020 Bed and breakfast inn and guesthouse standards.

19.36.010 Purpose.

The purpose of this chapter is to allow for small scale commercial lodging in residential or commercial areas, and establishing performance standards to ensure compatibility when being conducted in residential neighborhoods. (Ord. 2131, 1997).

19.36.020 Bed and breakfast inn and guesthouse standards.

(1) Where bed and breakfast inns and bed and breakfast guesthouses are allowed in the same zone, only one or the other of these facilities may be located on a subject property at the same time. An approved bed and breakfast guesthouse may be expanded to a bed and breakfast inn if a conditional use application for an inn is obtained and the original permit for the guesthouse is vacated.

(2) Submittal plan requirements to accompany a conditional use application:

(a) Site Plan Requirements. The site plan shall indicate the location of the off-street parking, proposed screening, the location and size of the bed and breakfast inn, and any proposed new construction to the premises, including additions, remodeling and/or outbuildings.

(b) Architectural Requirements. For new construction only, the following shall apply:

(i) The applicant shall submit proposed architectural drawings and renderings of the proposed structure, including exterior elevations, which shall project a residential, rather than a commercial appearance. This architectural documentation shall be in sufficient detail to demonstrate discernible compatibility between the new construction and the existing on-site development and structures; provided further, the applicant also shall document a design which, in scale and bulk, is in keeping with existing buildings on adjacent properties and compatible with the surrounding character and neighborhood in which the guesthouse or inn is located.

(ii) If an outbuilding or outbuildings are proposed, a grading plan, showing the extent of clearing activity is required. Site design shall be

sensitive to the natural features of the site. The use of manufactured and mobile homes is prohibited.

(c) Screening. The owner/operator shall provide screening with shrubs, trees, fencing and other suitable materials as necessary to minimize the impacts upon the residential character of the surrounding neighborhood.

(d) Floor Plan. The floor plan shall indicate bathrooms to be used by guests and the location and number of guest rooms.

(3) Minimum Performance Standards.

(a) Parking requirements shall be in accordance with Chapter 19.18 MMC. No on-street parking shall be allowed.

(b) Meal service shall be limited to overnight guests of the establishment. Kitchens shall not be allowed in individual guest rooms.

(c) The owner shall operate the facility and reside on the premises.

(d) One sign for business identification and advertising shall be permitted in conjunction with the bed and breakfast establishment.

(e) The bed and breakfast establishment shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business, except as to the sign as allowed above, that would be incompatible with the ability of the neighboring residents to enjoy peaceful occupancy of their properties.

(f) Guests shall be permitted to stay at the establishment for not more than 10 consecutive days at a time.

(g) The applicant shall submit a letter from the applicable water purveyor and sewer district, if applicable, stating that each of them has the respective capacity to serve the bed and breakfast.

(h) The applicant shall comply with all applicable city codes for fire, health and building requirements and any applicable food service regulations and on-site sewage disposal requirements of the Snohomish health district.

(i) If three or more guest rooms are proposed, the applicant shall also meet state requirements for a "transient accommodation license," as required by Chapter 212-52 WAC, as now written or hereafter amended.

(j) Bed and breakfast houses shall be permitted where indicated by the permitted use table for individual zones and within homes on the National or State Historic Register in any zone. (Ord. 2131, 1997).

Chapter 19.37

FREEWAY SERVICE ZONE

Sections:

19.37.010 Purpose.
19.37.020 Establishing in certain areas.
19.37.030 Permitted uses.
19.37.040 Conditional uses.
19.37.050 Lot area.
19.37.060 Lot width.
19.37.070 Yards.
19.37.080 Height regulations.
19.37.090 Lot coverage.
19.37.100 Parking.
19.37.110 Screening.
19.37.120 Issuing building permits.
19.37.130 Granting permission for an FS zone.

19.37.010 Purpose.

The purpose of establishing the freeway service (FS) zone is to permit the location of needed freeway commercial facilities in the vicinity of on- and off-ramp frontage and access roads of limited access highways with a minimum of traffic congestion in the vicinity of the ramp. Permitted uses are therefore limited to commercial establishments required by highway users. Certain performance standards, subject to hearing examiner review, are included to protect the freeway design. (Ord. 2131, 1997).

19.37.020 Establishing in certain areas.

The FS zone is to be established only upon land abutting a frontage or access road of a limited access highway and under single ownership or unified control. The proposed development plan for the zone must include provisions for the elimination of existing uses which are made nonconforming by the rezoning amendments. (Ord. 2131, 1997).

19.37.030 Permitted uses.

The following are permitted uses in an FS zone:

(1) Motor vehicle and boat dealers;

(2) Motorcycle dealers;

(3) Building, hardware and garden materials;

(4) Department and variety stores;

(5) Gasoline service stations;

(6) Eating and drinking establishments;

(7) Drug stores;

(8) Liquor stores;

(9) Sporting goods and related stores;

(10) Books, stationery, video and art supply stores;

(11) Jewelry stores;
(12) Hobby, toy and game shops;
(13) Photographic and electronic shops;
(14) Fabric and crafts shops;
(15) Florist shops;
(16) Pet shops;
(17) Tire stores;
(18) Bulk retail;
(19) Retail stores similar to those otherwise named on this list;
(20) Theaters;
(21) Hotels/motels;
(22) Forest product sales;
(23) Banks;
(24) Grocery stores. (Ord. 2526 § 15, 2004; Ord. 2131, 1997).

19.37.040 Conditional uses.

The following are conditional uses in a FS zone:
(1) Mini-storage facilities;
(2) Park and ride facilities. (Ord. 2526 § 16, 2004; Ord. 2131, 1997).

19.37.050 Lot area.

No minimum site area shall be required except as required by the planning commission in considering the site plan for approval. (Ord. 2131, 1997).

19.37.060 Lot width.

There are no lot width requirements in an FS zone. (Ord. 2131, 1997).

19.37.070 Yards.

(1) There shall be a minimum setback from all public or private rights-of-way and all easements as outlined herein.
(2) There shall be a minimum setback of 25 feet from any FS zone rear or side property line adjoining a residential area or zone. If not adjoining a residential area or zone, the minimum setback shall be five feet from the side yard line and 15 feet from the rear yard line. (Ord. 2131, 1997).

19.37.080 Height regulations.

Buildings, sign and structure height shall not exceed 35 feet as measured at the front face of the building unless modified herein. (Ord. 2131, 1997).

19.37.090 Lot coverage.

There are no lot coverage requirements in an FS zone. (Ord. 2131, 1997).

19.37.100 Parking.

Parking shall be provided as outlined in Chapter 19.18 MMC. (Ord. 2131, 1997).

19.37.110 Screening.

Each development shall be permanently screened from adjoining and contiguous residential areas or zone by a wall, fence, greenbelt or other enclosure approved by the hearing examiner of

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minimum height of four feet and maximum height of seven feet. No signs shall be permitted on any part of a screening enclosure unless equivalent screening is provided by existing parks, parkways, recreational areas or by topography or other natural conditions. No screening shall be required when abutting existing parks, parkways, recreation areas or by topography or other natural conditions. (Ord. 2131, 1997).

19.37.120 Issuing building permits.

Prior to the issuance of the building permit for any structure in an FS zone, a site plan for the zone, indicating the provisions for acceleration and deceleration lanes, ingress and egress driveways, curbing, internal traffic circulation and parking, the location of structures, and the floor area devoted to accessory uses must be reviewed and approved by the planning commission. Where only partial development of the zone is involved, the hearing examiner will evaluate the partial development plans as they contribute to or limit the possible ultimate development of the zone. (Ord. 2131, 1997).

19.37.130 Granting permission for an FS zone.

Prior to formal hearing examiner consideration for the granting of an FS zone, the planning department shall have on file the engineer's written evaluation of the adequacy of the proposed traffic control measures and the effect of the applicant's proposal on the proper functioning of the freeway interchange. Where a state facility is involved, the county engineer's evaluation shall include an evaluation by the State Highway District Engineer. (Ord. 2131, 1997).

Chapter 19.38

DEVELOPMENT STANDARDS – MOBILE HOME PARKS

Sections:

19.38.010 Purpose.
19.38.020 General requirements.
19.38.030 Mobile/manufactured home park zone.
19.38.040 Procedures for review and approval.
19.38.050 Development standards.
19.38.060 Required elements of site plans.
19.38.070 Design standards.
19.38.080 Park administration.
19.38.090 Authority to issue permits for and inspect installations of mobile/manufactured homes.
19.38.100 Permits for mobile/manufactured homes.
19.38.110 Permits for accessory structures.
19.38.120 Inspections.
19.38.130 Installation standards.
19.38.140 Insignia requirement.
19.38.150 Standards for existing parks.

19.38.010 Purpose.

The purpose of this chapter shall be to insure a suitable living environment for owners of mobile/manufactured homes located within mobile/manufactured home parks. The following standards and regulations are necessary for the health, safety, general welfare and convenience of the inhabitants of the city of Marysville. (Ord. 2131, 1997).

19.38.020 General requirements.

(1) No mobile/manufactured home shall be located outside of a mobile/manufactured home park, except in the case of temporary uses as defined in Chapter 19.44 MMC and subject to strict compliance with the requirements of said chapter.

(2) Mobile/manufactured homes shall be used for residential purposes only, except for limited home occupations as provided for in Chapter 19.32 MMC, and except in cases of temporary uses as defined in Chapter 19.44 MMC, subject to strict compliance with the requirements of said chapter.

(3) No space shall be rented for any purpose within a mobile/manufactured home park except for a permanent residence.

(4) No person, company or corporation shall establish a new mobile/manufactured home park, or enlarge the size of or increase the allowed den-

sity of an existing mobile/manufactured home park, without first complying with the provisions of this chapter. (Ord. 2131, 1997).

19.38.030 Mobile/manufactured home park zone.

There is created a mobile/manufactured home park zone (MHP) which shall be construed as an overlay classification which may be enacted for any area within the city zoned in the multiple-family residential classification (R-12-R-28), planned residential development classification (PRD 4.5-PRD 8), rural use classification with a conditional use permit, or the general commercial classification.

(1) Purpose. The purposes of the MHP classification are:

(a) To provide a suitable living environment within a park-like atmosphere for persons residing in mobile/manufactured homes;

(b) To encourage variety in housing styles within areas designated for other residential development;

(c) To permit flexibility in the placement of mobile/manufactured homes on a site in order to minimize costs associated with development of roads, utilities, walkways and parking facilities, while providing adequate common and private open space.

(2) Permitted Uses. In the MHP zone the following uses are permitted:

(a) Mobile/manufactured home parks, subject to the requirements of this chapter;

(b) Mobile/manufactured homes, located only within an approved mobile/manufactured home park;

(c) Accessory uses and structures as provided in MMC 19.08.030(1);

(d) Recreational facilities located within and primarily for the use of residents of an approved mobile/manufactured home park;

(e) Recreational vehicle and boat storage facilities located within and limited to use by residents of an approved mobile/manufactured home park. (Ord. 2131, 1997).

19.38.040 Procedures for review and approval.

(1) Rezone. For an MHP overlay zoning classification to be enacted, all procedural requirements, including filing fees specified in Chapter 19.60 MMC, shall be complied with in full.

(2) Conditional Use Permit. A mobile home park shall be allowed in a single-family residential zone only upon approval of a PRD rezone and the issuance of a conditional use permit by the city. The owner, operator and occupants of a mobile home park shall develop and use the park in strict compliance with the conditions imposed by the permit. The agency issuing the permit shall maintain continuing jurisdiction for the review and enforcement of said conditions.

(3) Preliminary Site Plan. A preliminary site plan meeting the requirements of MMC 19.38.060(1) shall be submitted with all applications for MHP rezones. Said site plan shall be subject to review, modification, approval or denial by the city council as an integral part of the MHP rezone process. There shall be no clearing, grading, construction or other development activities commenced on an approved mobile/manufactured home park until a preliminary site plan is upgraded to a binding site plan, and the same is approved and filed.

(4) Final Site Plan. Following final approval by the city council of an MHP rezone, but before development activities commence on the property, the owner shall submit a final site plan meeting the requirements of MMC 19.38.060(2). The city staff shall review the final site plan to determine whether it conforms to the approved preliminary site plan, the MHP rezone, and applicable state laws and city ordinances which were in effect at the time of the rezone approval. Upon such conformity being found the final site plan shall be signed by the planning director. An approved final site plan shall constitute an integral part of an MHP zoning overlay, and shall be binding upon the owner of the property, its successors and assigns. All development within a mobile/manufactured home park shall be consistent with the final site plan.

(5) Subdivision Exemption. If a mobile/manufactured home park remains completely under single ownership or control, including ownership by a condominium association, compliance with an approved MHP rezone and final site plan shall preclude the necessity to plat the park or comply with any subdivision laws or ordinances.

(6) Amendment of Final Site Plan. An approved final site plan may be modified or amended at the request of the applicant upon receiving administrative approval by the city planning director; provided, that if said modification or amendment affects the external impacts of the mobile/manufactured home park, or is determined by the planning director to be substantial in nature, then such modification or amendment shall be resubmitted to the hearing examiner and city council as a rezone application pursuant to Chapter 19.54 MMC.

(7) Duration of Approval. An MHP rezone and the final site plan which is an integral part thereof

shall be effective for three years from the date of approval of the rezone by the city council. An applicant who files a written request with the city council at least 30 days before the expiration of said approval period shall be granted a one-year extension upon a showing that the applicant has attempted in good faith to progress with the development of the park. During the approval period all improvements required by the final site plan shall be completed or bonded. Bonding shall conform to the bonding requirements for plats specified in Chapter 20.24 MMC.

(8) Completion Prior to Occupancy. All required improvements and other conditions of the MHP rezone and final site plan approval shall be met prior to occupancy of any site by a mobile/manufactured home; provided, that completion may be accomplished by phases if approved by the planning director.

(9) Compliance. Any use of land which requires an MHP rezone and final site plan approval, as provided in this chapter, and for which such review and approval is not obtained, or which fails to conform to an approved MHP rezone and final site plan, constitutes a violation of this title.

(10) Health District Approval. Prior to occupancy of a mobile/manufactured home park, the owner shall obtain a permit from the Snohomish health district and comply with all rules, regulations and requirements of said district. Said permit must be kept current at all times, subject to the park being closed. The rules, regulations and requirements of the health district shall be construed as being supplements to the provisions of this chapter. (Ord. 2131, 1997).

19.38.050 Development standards.

The purpose of this section is to establish minimum development standards for mobile/manufactured home parks.

(1) Density. The number of mobile/manufactured homes permitted in a mobile/manufactured home park shall not exceed eight units per gross acre. In rezoning property to MHP, the city may limit density further to insure compatibility with the surrounding residential area.

(2) Site Area. The minimum site area of a mobile/manufactured home park shall be three acres. Except as otherwise provided in subsection (3) of this section, the maximum site area of a mobile/manufactured home park, or combination of adjacent parks, shall be 15 acres. Parks shall be considered to be "adjacent" to one another unless they are separated by an unrelated land use, and not merely by a public or private street, easement or buffer strip.

(3) Annexations/Phased Developments. For mobile home parks which have been proposed and approved by Snohomish County for a phased development, as a condition of any final annexation ordinance approving annexation of such mobile home park into the city, the city may authorize such phased mobile home park to exceed the 15-acre maximum set forth in subsection (2) of this section. In cases where greater than 50 percent of the phased development has been constructed prior to annexation, the city may authorize construction of private roadways and storm drainage systems which match those previously constructed to county standards. In such cases, maintenance of such private roadways and storm drainage systems shall be the responsibility of the owner of the mobile home. (Ord. 2190 §§ 1, 2, 1998; Ord. 2131, 1997).

19.38.060 Required elements of site plans.

All new mobile/manufactured home parks, or expansions to or increases in density of existing parks, shall be subject to site plan approval, as provided above. The site plan shall be accurately drawn at a scale of not less than one inch for each 40 feet and shall include, at a minimum, the following:

(1) Preliminary Site Plan.

(a) The title and location of the proposed park, together with the names, addresses and telephone numbers of the owners of record of the land, and if applicable, the names, addresses and telephone numbers of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

(b) Area of the site;

(c) Project staging or phases, if any;

(d) The number of mobile/manufactured homes to be accommodated;

(e) A vicinity map at a minimum scale of two inches for each mile, showing sufficient area and detail to clearly locate the project in relation to arterial streets, natural features, landmarks and municipal boundaries;

(f) The location, identification and dimensions of all property lines, streets, alleys and easements. Indicate the condition of all public rights-of-way;

(g) The location of all existing and proposed structures, including but not limited to buildings, fences, culverts, bridges, roads and streets;

(h) The proposed location of all mobile/manufactured homes and accessory structures with setback requirements and lot coverage limitations;

(i) The location of all proposed open space, buffer strips and landscaped areas, showing existing trees and plant materials to be preserved, and conceptual plantings, berms and other features which are proposed;

(j) The location and intended use of outdoor storage areas;

(k) The location and intended use of recreational areas and facilities;

(l) Such additional detail as a city staff reasonably requires.

(2) Final Site Plan.

(a) All elements of the preliminary site plan, as approved by the city council;

(b) Original and proposed topography at maximum five-foot contour intervals, and preservation measures for fill and cut slopes;

(c) Typical cross-sections of all proposed internal circulation streets;

(d) The existing edge and width of pavement of any adjacent roadways and all proposed internal streets, off-street parking facilities, driveway approaches, curbing, sidewalks or walkways, street canalization and type of surfaces;

(e) The location, size and type of all proposed signs;

(f) The location, type and wattage of all outdoor lighting with typical standards illustrated;

(g) The location of all water mains, valves and fire hydrants;

(h) The location of all sewer mains, laterals, manholes, pump stations, and other appurtenances;

(i) The location of all stormwater drainage facilities, retention/detention ponds, and oil/water separators;

(j) A certificate of approval prepared for the signature of the planning director. (Ord. 2131, 1997).

19.38.070 Design standards.

The purpose of this section is to establish minimum standards for mobile/manufactured home parks.

(1) Lot Coverage. All structures and buildings, including mobile homes and outbuildings, and any carports, decks or stairways attached thereto, and all impervious surfaces such as paved driveways, parking areas, sidewalks and patios, shall not cumulatively cover more than 60 percent of the total area of an individual mobile/manufactured home lot; provided, that patios, decks and sidewalks shall not be included in said 60 percent calculation if a lot is landscaped, on a permanent basis, in a way which emphasizes the appearance of natural vegetation.

(2) Yard Requirements. All mobile/manufactured homes, together with their additions and appurtenant structures, accessory structures and other structures on the site (excluding fences), shall observe the following setbacks (excluding any hitch or towing fixture) which supersede the standards of the underlying zoning district:

(a) Park roads: not less than 20 feet from the centerline of right-of-way, and in no case less than five feet from the paved, surfaced edge;

(b) Exterior site boundary, not abutting an off-site public right-of-way: not less than 15 feet from the property line;

(c) Exterior site boundary, abutting an off-site public right-of-way: one-half of right-of-way plus 20 feet, measured from centerline;

(d) Side yard setback: all mobile/manufactured homes, together with their habitable additions, but excluding open porches and carports, shall be set back not less than three feet from side yard property lines.

(3) Height. No building or structure and no accessory building or structure shall exceed a height of 35 feet.

(4) Structure Separations. A minimum 10-foot separation shall be maintained between all mobile/manufactured homes, together with their habitable additions, and other mobile/manufactured homes. One-hour fire resistant accessory structures and/or service buildings shall maintain a minimum three-foot separation from adjacent mobile homes. Non-fire-rated accessory structures and/or service buildings shall maintain a minimum six-foot separation between themselves and mobile homes, except that carports may abut the unit to which they are an accessory use.

(5) Accessory Structures. Buildings or structures accessory to individual mobile/manufactured homes are permitted; provided, that the total developed coverage of the space shall not exceed the maximum lot coverage requirements.

Buildings or structures accessory to the mobile/manufactured home park as a whole, and intended for the use of the park occupants, are permitted, provided the building area does not exceed 50 percent of the common open space.

(6) Access and Circulation. The layout and general development plan for major and minor access streets and driveways within the mobile/manufactured home park, together with the location and

dimensions of access junctions with existing public streets and rights-of-way, shall be approved by the city engineer.

(a) Right-of-Way. All interior park roads shall be constructed within a right-of-way which shall be sufficient to construct and maintain the roadway plus a provision for utilities, but in no case shall be less than 30 feet in width.

(b) Pavement Width. Park roads shall have a minimum paved width of 30 feet, including the area improved with curbs and gutters. Cul-de-sac turnarounds shall have a minimum paved diameter of 70 feet.

(c) Public/Private Streets. The city engineer shall determine whether the streets within a park shall be public or private. If the streets are to be public they shall be constructed to public street standards.

(d) Roadway Surface. All access roadways and service drives shall be bituminous surfacing or

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better and at a surface depth classified by the city engineer.

(e) Curbs and Gutters. Rolled curbs and gutters shall be constructed on both sides of all interior park roadways.

(f) External Access Points. External access to the park shall be limited to not more than one driveway from a public street for each 200 feet of frontage.

(7) Parking Requirements. At least two off-street parking spaces, located adjacent to each respective mobile/manufactured home, shall be provided for each such unit and shall be hard surfaced. In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each four mobile/manufactured home lots, and shall be distributed for convenient access to all lots and may be provided by a parking lane and/or separate parking areas. Clubhouse and community building parking facilities may account for up to 50 percent of this requirement.

The front and side yard setbacks for mobile/manufactured home units shall not be calculated for purposes of meeting the minimum parking requirements. All off-street parking spaces shall have a minimum dimension of 10 feet by 20 feet.

(8) Utility Requirements. All mobile/manufactured home parks shall provide permanent electrical, water and sewage disposal connections to each mobile/manufactured home in accordance with applicable state and local rules and regulations.

All sewage and waste water from toilets, urinals, slop sinks, bathtubs, showers, lavatories, laundries, and all other sanitary fixtures in a park shall be drained into a public sewage collection system.

All water, sewer, electrical and communication service lines shall be underground and shall be approved by the agency or jurisdiction providing the service. Gas shut-off valves, meters and regulators shall not be located beneath mobile/manufactured homes.

(9) Open Space/Recreational Facilities. A minimum of 10 percent of the site shall be set aside and maintained as open space for the recreational use of park occupants. Such space and location shall be accessible and usable by all residents of the park for passive or active recreation. Parking spaces, driveways, access streets and storage areas are not considered to be usable open space.

The percentage requirement may be reduced if substantial and appropriate recreational facilities (such as recreational buildings, swimming pool, or tennis courts) are provided.

The area shall be exclusive of the required perimeter buffer, centrally located, and of such grade and surface to be suitable for active recreation.

(10) Sidewalks/Walkways. The park shall contain pedestrian walkways to and from all service and recreational facilities. Such walkways shall be adequately surfaced and lit. A portion of the roadway surface may be reserved for walkways; provided, that the same are marked and striped; and provided, that the roadway width is widened accordingly. Walkways shall be a minimum width of four feet.

(11) Lighting. Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to avoid adverse impact on adjacent properties.

(12) Storm Drainage. Storm drainage control facilities shall be subject to approval by the city engineer, and shall comply with the city's storm sewer code.

(13) Landscaping/Screening. The park shall provide visual screening and landscaping as required in perimeter setback areas and open space. Landscaping may consist of suitable groundcover, shrubs and trees; provided, that they are installed prior to the first occupancy of the park, and are of such species and size as would normally fulfill a screening function within five years of being planted. Site development shall be sensitive to the preservation of existing vegetation.

All trees, flowers, lawns and other landscaping features shall be maintained by the park management in a healthy, growing condition at all times.

The following minimum requirements for landscaping and screening shall apply:

(a) Along the exterior site boundary, a minimum 10-foot wide planting strip of evergreen trees and shrubs;

(b) Where abutting a major arterial, the planting strip shall be a minimum of 20 feet wide; provided, that a minimum 10-foot strip may be considered sufficient when it can be demonstrated that with earth sculpturing and recontouring, or a sight-obscuring fence, the development is buffered sufficiently;

(c) Perimeters of common parking areas and bulk storage areas shall be landscaped to provide visual screening.

(14) Signs. Signs and advertising devices shall be prohibited in a mobile/manufactured home park except:

(a) One identifying sign at each entrance of the park which may be indirectly lit, but not flash-

ing. Said sign shall comply with Chapter 19.20 MMC;

(b) Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.

(15) Storage.

(a) The owner of a mobile/manufactured home park shall provide, or shall require its tenants to provide, adequate indoor tenant storage facilities which are conveniently located near each mobile/manufactured home lot for the storage of household items and equipment. There shall be no outside storage of such items and equipment.

(b) Bulk storage and parking areas for boats, campers, travel trailers, recreational vehicles, trucks, snowmobiles, motorcycles and other seldom or seasonally used recreational equipment shall be provided within the park. A minimum of 300 square feet of space, exclusive of driveways, shall be provided for every 10 mobile/manufactured homes. Bulk storage and parking areas shall be separated from other parking facilities and shall be provided with some means of security. The requirements of this subsection may be waived by the city when the park developer agrees to prohibit the storage of such items within the park. All bulk storage and parking areas shall be surfaced. (Ord. 2131, 1997).

19.38.080 Park administration.

(1) The owner of a mobile/manufactured home park shall be responsible for the development and maintenance of the park in strict conformity with the MHP rezone, the binding site plan, and all applicable laws and ordinances. The Marysville planning department shall have jurisdiction over the owner in the event litigation is commenced by the city to enforce such compliance.

(2) A mobile/manufactured home park shall have internal rules and regulations governing, at a minimum, the following:

(a) A requirement that all tenants comply with city inspection codes at the time a mobile/manufactured home is installed or modified;

(b) A requirement that all tenants comply with city zoning code restrictions relating to the use of their mobile/manufactured home and lot;

(c) A requirement that all landscaping, buffer areas, recreational areas and facilities, storage areas, streets, walkways and other common areas and facilities be continuously maintained to at least the minimum standard required by the city and approved by the planning director at the time of initial occupancy.

(3) A mobile/manufactured home park shall have a resident manager who shall be the agent of the owner with authority to communicate directly with the city officials regarding compliance with city codes and requirements, and who shall be responsible for the enforcement of park rules and regulations. (Ord. 2131, 1997).

19.38.090 Authority to issue permits for and inspect installations of mobile/manufactured homes.

Pursuant to WAC 296-150B-220, the city of Marysville assumes responsibility for issuing permits, conducting inspections, and enforcing federal, state and local standards for the installation of mobile/manufactured homes. Said function shall be performed by the city building official, who shall at all times be a person meeting the qualifications specified in WAC 296-150B-220(5). (Ord. 2131, 1997).

19.38.100 Permits for mobile/manufactured homes.

(1) Prior to the location, relocation, establishment or occupancy of any mobile/manufactured home, the mobile/manufactured home owner or authorized representative shall obtain a permit from the city building department. Application for the permit shall be made on forms prescribed and furnished by the department.

(2) No person, firm, partnership, corporation or other entity may install a mobile home unless he, she or it owns the mobile home, is a licensed mobile home dealer, or is a contractor registered under Chapter 18.27 RCW.

(3) The fee for the permit shall be $50.00. Where a mobile/manufactured home is established as a residence without a permit as required herein, the fee shall be doubled; but the payment of such doubled fee shall not relieve any person from fully complying with all the requirements of this chapter, nor from any other penalties prescribed herein.

(4) Each permit issued by the building department for a mobile/manufactured home shall be valid until the mobile/manufactured home is moved to another location, whether on the same or different property. (Ord. 2131, 1997).

19.38.110 Permits for accessory structures.

Building permits shall be required pursuant to Chapter 16.04 MMC for all accessory structures on a mobile/manufactured home lot, including awnings, porches, steps, decks, storage sheds and carports. (Ord. 2131, 1997).

19.38.120 Inspections.

(1) No person may occupy or allow or suffer another person to occupy a mobile/manufactured home before the installation of the same has been inspected and approved by the city building official.

(2) The installer shall request an inspection after all aspects of the installation, other than installation of the foundation facia, have been completed. The building official will inspect the installation within five business days after he receives the request. If the inspection is not completed within five business days, the tenant or owner may occupy the mobile/manufactured home at his or her own risk. Occupancy before inspection does not imply city approval.

(3) The building official shall approve the installation of a mobile/manufactured home, and allow the same to be occupied, if the installation complies with the installation requirements of this chapter and the conditions of the permit. If the installation does not so comply, the building official shall provide the installer with a list of corrections that the installer must make. The list of corrections shall state a date by which the corrections must be completed. The building official shall reinspect the installation after the corrections are completed. If the items that require correction do not endanger the health or safety of the occupants, or substantially affect the habitability of the mobile/manufactured home, the building official may permit the owner of the home to occupy it. (Ord. 2131, 1997).

19.38.130 Installation standards.

The city adopts and incorporates herein by reference all installation standards and all inspection and enforcement rules relating to mobile/manufactured homes, as now or hereafter specified in Chapter 296-150B WAC. Said standards relate to site preparation, foundation system footings, foundation system piers, foundation system plates and shims, foundation facia, anchoring systems, and on-site assembly of units. The same shall be administered and enforced by the city building official. (Ord. 2131, 1997).

19.38.140 Insignia requirement.

All mobile/manufactured homes to be located within the city of Marysville that do not bear an insignia of approval from the Washington State Department of Labor and Industries, or the U.S. Department of Housing and Urban Development, and for which the owner can demonstrate proof that the home was located within the city of Marysville prior to January 1, 1982, shall, to the extent feasible, be inspected by the city building official, following payment of all applicable fees, for the following livability and health-safety criteria before relocating:

(1) The home must have safe, operable heating facilities.

(2) The home must be equipped with a water lavatory, bathtub or shower, kitchen sink; be provided with hot and cold running water; and all facilities shall be installed and maintained in a safe and sanitary condition.

(3) All electrical service-entrance conductors, service equipment, switches, lighting outlets, power outlets and appliances shall be maintained in a safe manner.

(4) The home must be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

(5) All openable windows and doors must be in openable condition to provide for adequate natural ventilation and emergency exit.

(6) An operable smoke detector shall be installed within the home.

(7) The home shall be structurally sound with no apparent hazardous conditions in the floors, walls, ceilings and roofs.

(8) The home shall be well maintained, free of debris and infestations of insects, vermin or rodents.

(9) The inspection form shall include a statement that inspection does not constitute a warranty that the home is safe or livable. (Ord. 2131, 1997).

19.38.150 Standards for existing parks.

(1) Mobile home parks established prior to the effective date of this code shall continue to be governed by all standards relating to density, setbacks, landscaping and off-street parking in effect at the time they were approved;

(2) Placement of new accessory structures and replacement mobile homes, either standard or nonstandard, in these mobile home parks shall be governed by the dimensional standards in effect when the parks were approved. Where internal setbacks are not specified, the setback standards outlined in the Uniform Building Code (UBC) and the Uniform Fire Code (UFC) shall apply;

(3) No spaces or pads in an existing mobile home park shall be used to accommodate recreational vehicles (RVs), except when the spaces or pads were approved for RVs at the time the park was established;

(4) An existing mobile home park may be enlarged; provided, the proposed enlargement meets the standards set forth in MMC 19.38.050 through 19.38.070;

(5) Insignia mobile homes may be installed in established parks; provided, that all mobile homes supported by piers shall be fully skirted;

(6) The placement of new accessory structures and replacement mobile homes shall comply with Chapter 19.24 MMC, Sensitive Areas Management. (Ord. 2424 § 1, 2002).

Chapter 19.40

DEVELOPMENT STANDARDS – RECREATIONAL VEHICLE PARKS

Sections:

19.40.010 Purpose.
19.40.030 General requirements.
19.40.040 Criteria for locating a recreational vehicle park.
19.40.050 Conditional use permit required.
19.40.060 Health district approval required.
19.40.070 Final site plan.
19.40.080 Completion prior to occupancy – Phasing.
19.40.090 Design standards.
19.40.100 Accessory uses.
19.40.110 Park administration.

19.40.010 Purpose.

The purpose of this chapter shall be to ensure that recreational vehicle parks are located, developed and occupied in accordance with standards and regulations which will protect the health, safety, general welfare and convenience of the occupants of such parks and the citizens of the city of Marysville. (Ord. 2131, 1997).

19.40.030 General requirements.

(1) No recreational vehicle shall be occupied overnight unless the same is parked inside an approved recreational vehicle park. An exception to this rule may be granted for temporary uses as defined in Chapter 19.44 MMC, subject to strict compliance with the requirements of said section.

(2) No recreational vehicle shall be occupied for commercial purposes anywhere in the city of Marysville. An exception to this rule may be granted for temporary uses as defined in Chapter 19.44 MMC, subject to strict compliance with the requirements of said section.

(3) No recreational vehicle shall be used as a permanent place of abode, or dwelling, for indefinite periods of time. Occupancy in a park for more than 180 days in any 12-month period shall be conclusively deemed to be permanent occupancy. Any action toward removal of wheels of a recreational vehicle, except for temporary purposes of repair; or placement of the unit on a foundation, is hereby prohibited.

(4) No external appurtenances, such as carports, cabanas or patios, may be attached to any recreational vehicle while it is in a park.

(5) No space within a recreational vehicle park shall be rented for any purpose other than those expressly allowed by this chapter.

(6) No person, company or corporation shall establish or modify a recreational vehicle park without first complying with the provisions of this chapter. (Ord. 2131, 1997).

19.40.040 Criteria for locating a recreational vehicle park.

Recreational vehicle parks may only be established on property within the city of Marysville which meets the following criteria:

(1) Recreational vehicle parks shall be allowed in all zones of the city except single-family and multiple-family residential zones.

(2) The minimum site area of a park shall be 10 acres. The maximum site area of a park, or combination of adjacent parks, shall be 15 acres. Parks shall be considered to be "adjacent" to one another unless they are separated by an unrelated land use, and not merely by a public or private street, easement or buffer strip.

(3) After development, the conditions of the soil, groundwater level, drainage, and topography shall not create hazards to the property or to the health or safety of the occupants.

(4) Property under the jurisdiction of the Shoreline Management Act shall be excluded from development of recreational vehicle parks if it is designated as being in the natural environment.

(5) Parks shall be located with direct access to a major arterial or state highway and with appropriate frontage thereon to permit appropriate design of entrances and exits. No entrance or exit from a park shall be permitted through a residential district, nor require movement of traffic from the park through a residential district. (Ord. 2131, 1997).

19.40.050 Conditional use permit required.

A recreational vehicle park shall be allowed only upon the issuance of a conditional use permit by the hearing examiner and city council. The owner, operator and occupants of a recreational vehicle park shall develop and use the park in strict compliance with the conditions imposed by the permit. The agency issuing the permit shall maintain continuing jurisdiction for the review and enforcement of said conditions. (Ord. 2131, 1997).

19.40.060 Health district approval required.

Prior to occupancy of a recreational vehicle park, the owner shall obtain a permit from the Snohomish district and comply with all rules, regulations and requirements of said district. Said permit

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must be kept current at all times, subject to the park being closed. The rules, regulations and requirements of the health district shall be construed as being supplements to the provisions of this chapter. (Ord. 2131, 1997).

19.40.070 Final site plan.

A site plan shall be submitted with all applications for a recreational vehicle park. Said site plan shall be subject to review, modification, approval or denial by the agency issuing the permit. An approved final site plan shall constitute an integral part of the permit for the recreational vehicle park, and shall be binding upon the owner of the property, its successors and assigns. All development with the recreational vehicle park shall be consistent with the final site plan. Such plans may be modified or amended at the request of an owner upon receiving administrative approval by the city planning director; provided, that if said modification or amendment affects the external impacts of the recreational vehicle park, or is determined by the planning director to be substantial in nature, then such modification or amendment shall be resubmitted to the hearing examiner as a conditional use permit application pursuant to MMC 19.52.060(2). (Ord. 2131, 1997).

19.40.080 Completion prior to occupancy – Phasing.

All required site improvements, and other conditions of the permit and final site plan shall be met prior to occupancy of any site by a recreational vehicle; provided, that completion may be accomplished by phases if such phases are identified and approved in the permit. (Ord. 2131, 1997).

19.40.090 Design standards.

The purpose of this section is to establish minimum design standards for recreational vehicle parks.

(1) Density. The number of recreational vehicles permitted in a park shall not exceed a density of 20 units per gross acre. The agency issuing the permit may limit density further to ensure compatibility with the surrounding areas.

(2) Campsite Size. Each individual recreational vehicle site shall be not less than 800 square feet in size.

(3) Access Points. Entrances and exits to the park shall be designed for safe and convenient movement of traffic into and out of the park and to minimize friction with free movement of traffic on adjacent streets. All traffic into and out of the park shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No material impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the street within 100 feet of the intersection with the park entrance.

(4) Parking. At least one parking space shall be provided on each site. At least one parking space for each 20 sites shall be provided for visitor parking in the park.

(5) Internal Park Roads. All internal park roads shall be privately owned and maintained. They shall be constructed to all-weather standards, as approved by the city engineer. Park roads shall have a minimum improved width as follows:

(a) One-way road no parking, 11 feet;

(b) One-way road with parking on one side, or two-way road with no parking, 18 feet;

(c) Two-way road with parking on one side, 27 feet;

(d) Two-way road with parking on both sides, 34 feet.

(6) Open Space/Recreational Facilities. A minimum of 20 percent of the site shall be set aside and maintained as open space for the recreational use of park occupants. Such space and location shall be accessible and usable by all residents of the park for passive or active recreation. Parking spaces, driveways, access streets, and storage areas are not considered to be usable open space. The percentage requirement may be reduced if substantial and appropriate recreational facilities (such as recreational buildings, swimming pool or tennis courts) are provided.

(7) Setbacks. No recreational vehicle site shall be closer than 35 feet from any exterior park property line abutting upon a major arterial, shoreline, or residential zone, or 20 feet from any other exterior park property line. Permanent structures within a park shall have minimum front and rear yards of 20 feet each, and minimum side yards of 10 feet each.

(8) Landscaping/Screening.

(a) The park shall provide visual screening and landscaping as required in perimeter setback areas and open space. Landscaping may consist of suitable groundcover, shrubs and trees; provided, that they are installed prior to the first occupancy of the park and are of such species and size as would normally fulfill a screening function within five years of being planted. Site development shall be sensitive to the preservation of existing vegetation;

(b) The minimum width for perimeter landscaping and screening shall be 20 feet for all exterior park property lines. It shall be designed and maintained to be aesthetically pleasing, and functional for site screening and noise buffering;

(c) Where needed to enhance aesthetics or to ensure public safety, recreational vehicle parks shall be enclosed by a fence, wall, earth mound or by other designs which will complement the landscape and assure compatibility with the adjacent environment;

(d) All trees, flowers, lawns and other landscaping features shall be maintained by the park management in a healthy growing condition at all times.

(9) Signs. Signs and advertising devices shall be prohibited in recreational vehicle parks except:

(a) If the park is visible from Interstate 5, one on-site identification sign complying with the standards of the State Highway Signage Code;

(b) One identifying sign at each entrance of the park which may be indirectly lit, but not flashing. Said sign shall comply with Chapter 19.20 MMC;

(c) Directional and information signs for the convenience of occupants of the park.

(10) Utilities. Electricity shall be provided to each recreational vehicle site. All utility lines in the park shall be underground and shall be approved by the agency or jurisdiction providing the service.

(11) Storm Drainage. Storm drainage control facilities shall be subject to approval by the city engineer and shall comply with the city's storm sewer code.

(12) Public Facilities. Recreational vehicle parks shall provide the following public facilities in such quantity, size and location as is approved by the agency issuing the conditional use permit:

(a) A water distribution system connected to the city's water utility;

(b) A water station for filling recreational vehicle water storage tanks;

(c) Restroom facilities containing showers and toilets connected to the city's sewer utility, the minimum number of which shall be one commode and one shower for each 20 recreational vehicle sites;

(d) A sanitary waste station for emptying sewage holding tanks of recreational vehicles;

(e) Refuse containers for solid waste in adequate quantity shall be rented from and serviced by the city of Marysville garbage utility. Park garbage shall be picked up daily by park personnel, who shall also maintain the park free of any uncontrolled garbage. (Ord. 2131, 1997).

19.40.100 Accessory uses.

Management headquarters, recreational facilities, restrooms, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to operation of a recreational vehicle park are permitted as accessory uses to the park. In addition, grocery stores and convenience shops shall be permitted as accessory uses in the discretion of the agency issuing the conditional use permit, subject to the following restrictions:

(1) Such establishments and the parking areas primarily related to their operations shall not occupy more than five percent of the gross area of the park.

(2) Such establishments shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park.

(3) The structures housing such facilities shall not be located closer than 50 feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the park. (Ord. 2131, 1997).

19.40.110 Park administration.

(1) The owner of a recreational vehicle park shall be responsible for the development and maintenance of the park in strict conformity with the binding site plan, the conditional use permit, and all applicable laws and ordinances. Each park shall have an on-site manager available 24 hours per day, seven days per week.

(2) A written management plan shall be submitted for approval as a part of the conditional use permit process. It shall include, at a minimum, the proposed management structure, proposed park rules and regulations, and proposed methods to enforce occupancy limitations and other requirements of this chapter. (Ord. 2131, 1997).

Chapter 19.42

DEVELOPMENT STANDARDS – INDUSTRIAL AND BUSINESS PARKS

Sections:

19.42.010 Applicability.
19.42.020 Purpose.
19.42.030 Minimum zoning criteria.
19.42.040 Rezone and review procedures.
19.42.050 Preliminary plan.
19.42.060 Rezone and preliminary plan review.
19.42.070 Requirements for the final plan.
19.42.080 Approval of the final plan.
19.42.090 Final plan filing fee.
19.42.100 Disputes.
19.42.110 Revocation of approval.
19.42.120 Amendments to plans.
19.42.130 General performance requirements.

19.42.010 Applicability.

This chapter regulates development in the business park (BP), general industrial (GI) and light industrial (LI) zones. It sets forth procedures and standards to be followed in applying for and building in these zones. For the purpose of administering this chapter, all land zoned industrial park (IP) or planned industrial park (PIP) on or before the effective date of the ordinance codified in this chapter shall be reviewed as light industrial (LI). (Ord. 2131, 1997).

19.42.020 Purpose.

(1) The purpose of this chapter is to provide for the location and grouping of industrial enterprises and activities involving manufacturing, assembly, fabrication, processing, bulk handling and storage, research facilities, warehousing, heavy trucking and certain uses, though perhaps inherently commercial, that are best suited to industrial areas of the city. It is the purpose of this zone to protect a land base for the aforesaid businesses and the employment opportunities they represent. These purposes are accomplished by:

(a) Allowing for a wide range of industrial and manufacturing uses, but providing also for certain commercial uses that have a need to be separated from residential areas;

(b) Establishing appropriate development standards and public review procedures for the aforesaid businesses; and

(c) Except for the permitted uses, limiting other service, residential and commercial uses to those necessary to directly support the permitted uses.

(2) Use of this zone is appropriate in areas designated by the comprehensive plan as industrial and which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2131, 1997).

19.42.030 Minimum zoning criteria.

(1) A tract of land proposed for BP zoning shall contain sufficient area to create a contiguous tract of BP zoned land no less than 10 acres in size.

(2) A tract of land proposed for GI or LI zoning shall contain sufficient area to create a contiguous tract of GI or LI zoned land no less than five acres in size.

(3) A tract of land must be in single ownership or for multiple parcels under unified control. This requirement shall apply during preliminary and final plan stages to insure continuity of plan development.

(4) Zoning request must be accompanied by a preliminary development plan prepared in compliance with the regulations and requirements of this chapter.

(5) Preliminary and final plans must comply with bulk regulations contained in Chapter 19.12 MMC.

(6) All utility services and distribution lines shall be located underground, and in the case of the BP zone, the property shall be served by public water and sewer services and paved streets. (Ord. 2131, 1997).

19.42.040 Rezone and review procedures.

(1) General Procedures. The BP, GI and LI zones require a two-step approval process:

(a) The preliminary plan and rezone application are considered together through the normal rezone process; and

(b) A final plan is reviewed administratively after the rezone has been approved. No development permits shall be issued until a final plan has been approved in accordance with the provisions of this chapter.

(2) Alternative Procedure – Concurrent Rezone and Preliminary Binding Site Plan. Concurrent applications for rezone and preliminary binding site plans may be made; provided, that all items required by MMC 19.42.050 and 19.42.060 are submitted for the entirety of the rezone site at the time application is made. The rezone application and preliminary binding site plan shall be processed as a master permit application in accordance with the procedures set forth in Chapters 19.54 and 20.44 MMC.

(3) City-Initiated Rezone Alternative Procedure for BP, GI and LI. When recommended by the city comprehensive plan, the city may initiate rezoning to BP, GI or LI as part of the comprehensive plan implementation process. When this alternative is exercised, the provisions of MMC 19.42.030(1) through (4) shall be waived. Prior to development of the site, the developer shall submit a final development plan and fees as required by city codes to the planning department for review and approval.

(4) Alternative Procedure for Existing BP, GI and LI Zoned Land. Prior to development of existing BP, GI or LI land, the developer shall submit a final development plan and fees as required by city codes to the planning department for review and approval. (Ord. 2131, 1997).

19.42.050 Preliminary plan.

The preliminary development plan shall contain, at a minimum, the following:

(1) Textual Material.

(a) The name and addresses of the developer, land surveyor, engineer, architect, planner and other professionals involved;

(b) A description of intended type of uses and operations including timing, management control, growth prospects, community need, and other pertinent information;

(c) A statement of intention to formally subdivide the property, if applicable;

(d) A description of proposed building design, including probable exterior finish;

(e) A provision for phasing out nonconforming uses and for removing existing structures or incorporating them into the overall development scheme; and

(f) A statement of landscape maintenance provisions.

(2) Graphic Material. Prints of drawings, the number and scale determined by the planning department, drawn in compliance with the performance standards of MMC 19.42.130, showing all the following information:

(a) A vicinity sketch locating the development;

(b) Property boundaries of the development area;

(c) Topography, sufficient to show direction of drainage and site development suitability, with contour intervals of two feet depending upon slope characteristics and extending not less than 150 feet beyond the property boundaries. This requirement may be waived by the planning director if the site does not warrant such information;

(d) All existing structures and improvements within the development area which are to remain;

(e) Existing streets bounding and/or within the development area;

(f) Tentative traffic and pedestrian circulation pattern within the development area, showing intended street widths;

(g) Tentative location of building lots and/or building areas and major areas intended for open space;

(h) Phasing plan depicting development divisions, if applicable; and

(i) General landscape plan showing areas to be landscaped, proposed plant height, and treatment of existing vegetation. (Ord. 2131, 1997).

19.42.060 Rezone and preliminary plan review.

(1) The city shall review the proposal for its relationship to public health, safety and welfare zoning criteria, including the ability of the proposal to be compatible and blend with the surrounding area. All locational, site and building design features and their impacts may be considered.

(2) Reviewing departments shall have 15 days for review unless the applicant is requested to provide greater detail on given elements of the proposed preliminary plan. (Ord. 2131, 1997).

19.42.070 Requirements for the final plan.

(1) A planned development may be finalized as a whole or in successive divisions.

(2) The final plan for a planned development shall consist of the following for each division:

(a) A completed application form signed by the developer(s) of the project and by the property owner(s) if other than the developer;

(b) Prints of drawings, the number and scale determined by the planning director, showing all the following information; provided, the planning director may permit postponement of detailed building design information until application for building permits on each lot or site:

(i) Site contours at two-foot intervals, both existing and final where different, street layout and identification, size and shape of all building sites and lots, location of buildings, open space area with any specific open space activity areas indicated,

(ii) Final landscape plan, including plant locations and species, sizes at planting, together with location and typical side or cross-section view of perimeter fencing or berms, if any, and irrigation (if necessary or appropriate),

(iii) Plans for signing and lighting, including typical entrance treatment and entrance signs,

(iv) Plans for buildings and related improvements to a scale of not less than one inch to 50 feet, showing:

(A) Typical plot plan for each type of building, including location of building entrance, driveway, parking, fencing and sight screening,

(B) Typical elevations (side views) of each type of building, including identification of exterior building materials,

(v) Typical street and walkway cross-sections,

(vi) Plans for open space area improvements, if any;

(c) Restrictive covenants as required, together with a statement from a private attorney as to their adequacy to fulfill the requirements of this chapter; and

(d) To insure conformity a final binding site plan, if required, shall be filed simultaneously with final plans. Final plan approval shall occur only after final binding site plan approval. (Ord. 2131, 1997).

19.42.080 Approval of the final plan.

The final plan or phased divisions thereof shall be submitted to the planning director for his/her final approval or disapproval. The director shall submit copies of the final plan to appropriate departments for their review and comment. Any reviewing department may request changes; provided, they are consistent with the approved preliminary plan. Upon review and comment, the planning director shall approve the final plan in writing when found to be in conformance with the approved preliminary plan and this chapter. The planning director may permit revision of the general design elements of the preliminary plan so long as it is found that impacts on adjoining properties are not significantly changed and major environmental protection features of the preliminary plan are maintained. Upon approval, the final plan shall control all development of the property. (Ord. 2131, 1997).

19.42.090 Final plan filing fee.

To cover the administrative review costs for the final plan or phased division thereof, a filing fee shall be paid to the planning department as set forth in the city's fee schedule or other applicable resolutions or ordinances when submitting the final plan. (Ord. 2131, 1997).

19.42.100 Disputes.

Where the applicant and planning director or other departments are not able to reach agreement on the provisions of the final plan, the dispute shall be submitted to the hearing examiner in accordance with the procedures established by this title for administrative appeals. (Ord. 2131, 1997).

19.42.110 Revocation of approval.

In the event applicable provisions of this title have been materially violated, the planning director may initiate proceedings before the hearing examiner to revoke the rezone, in whole or in part. Such actions shall proceed as specified in MMC 19.56.050 for consideration of a rezone application. In addition, the planning director may seek suspension or revocation of any development permits issued under the BP and IP zoning. (Ord. 2131, 1997).

19.42.120 Amendments to plans.

Plans which are approved by the hearing examiner may, upon request of the property owners, be amended by the planning director as an administrative act. This authority shall be limited to amendments of a minor nature which cause no increase in intensity of use and which do not reduce performance standards below those set forth when rezoned, and which do not increase the detrimental impact of the zone on adjoining properties, and which do not substantially alter the design of the official site plan. No change in points of vehicular access to the property shall be approved without written concurrence from the city director of public works. Disagreements over amendments shall be appealed to the hearing examiner. (Ord. 2131, 1997).

19.42.130 General performance requirements.

Each planned zone and uses located in the BP, GI and IP zones shall comply with the following requirements:

(1) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable beyond the boundaries of the lot upon which the use is located by reason of such nuisance effects including but not limited to offensive odors, dust, smoke, gas or electronic interference.

(2) Where the proposal contains more than one phase, all development shall occur in sequence consistent with the phasing plan which shall be presented as an element of the preliminary plan unless modification is approved by the planning division.

(3) Buildings shall be designed to be compatible with their surroundings, both within and adjacent to the zone.

(4) Restrictive covenants shall be provided which shall insure a long-term maintenance and upkeep of landscaping, storm drainage facilities, other private property improvements, and open space areas and facilities. Further, said covenants shall reference the binding site development plans and indicate their availability at the planning division, and shall provide that the city of Marysville is an additional beneficiary with standing to enforce, and shall preclude the avoidance of performance obligations through lease agreements.

(5) Permanent off-street parking shall be in accordance with terms of Chapter 19.18 MMC.

(6) Signs for business identification or advertising of products shall comply with Chapter 19.20 MMC.

(7) Noise levels generated within the development shall not violate any city code, law or regulation relating to noise. Noise of machines and operations shall be controlled so as to not become objectionable due to intermittence or beat frequency or shrillness.

(8) The retail sale of products manufactured on the BP, GI or LI zone 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.

(9) Prior to the issuance of any building occupancy permits in a BP, GI or LI zone the developer(s) shall either complete all required improvements of a public nature, such as but not limited to streets, sidewalks, storm runoff and erosion control system, street signs and street lights, to the required specification, or enter into an agreement with the city to construct such development as may be approved, together with performance bond or other suitable collateral to ensure the completion of such improvements. Required improvements of a private nature, such as but not limited to private roads and landscaping, shall be constructed prior to building occupancy, bonded or, subject to city approval, be constructed in conformance with a performance schedule delineated as part of the final plan which shall be tied to the issuance of building, occupancy or other permits. All bonded improvements shall be completed within six months of bond issuance or be subject to bond forfeiture. Bond extensions may be granted by the director of public works. As improvements are completed and upon application by the developer, a partial release of the bond or collateral may be authorized which will leave a balance equal to the cost of completing the remaining improvements as certified by the city. The bond or collateral agreement shall provide for forfeiture to the city and the right to withdraw funds upon default by the developer to construct any or all of the public improvements in accordance with approved specifications within the time limited for performance. The bond may be issued for phased divisions of the development as may be approved by the city.

(10) All outdoor lighting shall conform to the unified architectural lighting scheme for the BP, GI or LI development and shall not:

(a) Shine on adjacent residential properties;

(b) Conflict with the readability of traffic control devices; or

(c) Rotate or flash. (Ord. 2131, 1997).

Chapter 19.43

WIRELESS COMMUNICATION FACILITIES

Sections:

19.43.010 Purpose.
19.43.020 General siting requirements.
19.43.030 Wireless communication facility standards.

19.43.010 Purpose.

This chapter is intended to provide for a wide range of locations and options for wireless communication providers while minimizing the unsightly characteristics associated with wireless communication facilities and to encourage creative approaches in locating wireless communication facilities which will blend in with the surroundings of such facilities. (Ord. 2145 § 10, 1997).

19.43.020 General siting requirements.

No new WCF facilities with support structures shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. In evaluating any proposed WCF, the planning director may, at the expense of the applicant, retain an outside consultant to review the techinical information submitted by the applicant in conjunction with the proposal. Information submitted should support one or more of the following factors:

(1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements. Co-location shall be encouraged where possible.

(2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

(3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(7) If reconstruction of a legal nonconforming structure is done for the primary purpose of providing co-location, and the reconstruction does not increase the existing degree of nonconformity, the variance from the maximum height requirement shall be waived.

WCFs are permitted outright or as a conditional use in the zones identified in Chapter 19.08 MMC. In addition, WCFs are permitted outright on publicly owned properties meeting the special setback requirements identified in MMC 19.43.030(4). WCFs used solely for emergency radio service purposes, which are constructed on publicly owned property, may increase to the maximum height allowed in MMC 19.12.040 without providing for co-location. (Ord. 2416 § 1, 2002; Ord. 2145 § 10, 1997).

19.43.030 Wireless communication facility standards.

(1) Submittal Requirements. An application for a building permit or conditional use permit for a wireless communication facility shall be on forms prescribed by the planning department, and be accompanied by the following information:

(a) Site and landscaping plans drawn to scale;

(b) Building and tower elevations drawn to scale;

(c) A description of the tower with documentation establishing its structural integrity for the proposed uses;

(d) A statement describing capacity and excess space, if any, and whether it will be leased;

(e) Proof of ownership of the proposed site or authorization to utilize it;

(f) Copies of any easements necessary;

(g) An area map identifying any existing wireless telecommunications towers;

(h) An analysis of the area containing existing topographical contours, tall buildings, and other factors influencing the tower location; and

(i) Estimated number of potential towers needed at time of application for future use of a 10-year period as a condition of review and approval.

(2) Landscaping and Screening. WCF with support structures and equipment buildings are subject to landscaping requirements in Chapter 19.16 MMC.

(3) Aesthetics/Placement, Materials and Colors. WCF with support structures shall be designed, to the extent possible, using materials, colors, textures, screening, and landscaping that will blend the WCF with the natural setting and built environment.

Attached WCF shall be designed so that the antenna and supporting electrical and mechanical equipment are a neutral color that is identical to, or closely compatible with, the color of the supporting structure in order to visually obscure the WCF equipment.

(4) Setback Requirements. WCFs with support structures must comply with the setback requirements identified in Chapter 19.12 MMC for each zone. Construction of a WCF with support structure on any R-zoned property must be set back the corresponding WCF height from an adjoining residential property line.

(5) Site Improvements – Frontage Improvement Requirements. Wireless communication facilities with support structures must comply with frontage improvement requirements specified in MMC 12.02.170.

(6) Discontinuance or Abandonment. Any WCF that is not operated for a period of 12 months shall be considered abandoned, and the owner of such WCF shall remove the WCF within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If such WCF is not removed within said 90 days, the governing authority may remove the WCF at the owner's expense. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF. (Ord. 2145 § 10, 1997).

Chapter 19.44

NONCONFORMANCE AND TEMPORARY USES

Sections:

19.44.010 Purpose.
19.44.020 Nonconformance – Applicability.
19.44.030 Nonconforming structures.
19.44.040 Nonconforming uses.
19.44.050 Discontinuance or abandonment.
19.44.060 Conditional uses.
19.44.070 Temporary uses – Purpose.
19.44.080 Temporary uses – Permitted uses.
19.44.090 Temporary use variances.
19.44.100 Temporary use permits – Uses requiring permits.
19.44.110 Temporary use permits – Exemptions to permit requirement.
19.44.120 Temporary use permits – Duration and frequency.
19.44.130 Temporary use permits – Parking.
19.44.140 Temporary use permits – Traffic control.

19.44.010 Purpose.

Nonconforming structures and nonconforming uses, as defined in this chapter, shall be allowed to continue in existence, and to be repaired, maintained, remodeled, expanded and intensified, but only to the extent expressly allowed by the provisions of this chapter. It is the purpose of the city to ultimately have all structures and uses brought into conformity with the land use codes and regulations duly adopted by the city, as the same may be amended from time to time. Nonconforming structures and uses should be phased out or brought into conformity as completely and as speedily as possible with due regard to the special interests and property rights of those concerned. (Ord. 2131, 1997).

19.44.020 Nonconformance – Applicability.

(1) All nonconformances shall be subject to the provisions of this chapter.

(2) The provisions of this chapter do not supersede or relieve a property owner from compliance with:

(a) The requirements of the Uniform Building and Fire Codes; or

(b) The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. 2131, 1997).

19.44.030 Nonconforming structures.

A nonconforming structure is one which was in compliance with all land use codes and regulations at the time it was constructed, but which violates the bulk or dimensional requirements of the current land use codes and regulations of the city.

(1) Nonconforming structures may be repaired and maintained. The interior of said structures may be restored, remodeled and improved to the extent of not more than 25 percent of the assessed value of the structure in any consecutive period of 12 months.

(2) The exterior dimensions of a nonconforming structure may be enlarged by up to 100 percent of the floor area existing at the effective date of the nonconformance upon obtaining a conditional use permit pursuant to this chapter; provided, that the degree of nonconformance shall not be increased, and the then-current bulk and dimensional requirements of the zone in which it is located shall be observed with respect to the new portion of the building.

(3) A nonconforming structure which is voluntarily or accidentally destroyed, demolished or damaged, or allowed to deteriorate, to the extent where restoration costs would exceed 75 percent of the assessed value of the structure, may be restored and rebuilt only if the structure, in its entirety, is brought into conformity with the then-current bulk and dimensional requirements of the zone in which it is located; provided, that a single-family residence with nonconforming status in a residential zone may be restored and rebuilt to any extent as long as it does not increase the preexisting degree of nonconformance; provided, a single-family residence with nonconforming status in zones other than residential may be restored and rebuilt to any extent on the original footprint of the structure's foundation so long as it does not increase the preexisting degree of nonconformance, upon obtaining a conditional use permit pursuant to this chapter.

(4) When a structure or a portion thereof is moved to a new location, it must be made to conform to all then-current land use restrictions applicable to the new location.

(5) Nonconforming structures shall not be exempt from compliance with all current codes and regulations relating to storm drainage, landscaping, off-site traffic mitigation and frontage improvements including curbs, gutters and sidewalks. (Ord. 2526 § 17, 2004; Ord. 2131, 1997).

19.44.040 Nonconforming uses.

A nonconforming use is any use of land or of a structure which was legal at the time of its establishment but which violates the land use provisions of the current codes and regulations of the city, including those relating to zoning districts, density, access and off-street parking.

(1) A nonconforming use loses its status, and must be discontinued, if the structure in which it is located is voluntarily or accidentally destroyed, demolished or damaged, or is allowed to deteriorate, to the extent where restoration costs would exceed 75 percent of the assessed value of the structure. Provided, all nonconforming residential structures which are allowed to be restored and rebuilt as described in MMC 19.44.030(3), shall be allowed to continue the residential use thereof.

(2) A nonconforming use cannot be changed to a fundamentally different use unless it is brought into complete conformity with the current codes and regulations. An increase in volume or intensity of a nonconforming use is permissible, however, where the nature and character of the use is unchanged and substantially the same facilities are used. The test is whether the intensified use is different in kind from the nonconforming use in existence at the effective date of the nonconformance.

(3) A nonconforming use may be expanded upon the granting of a conditional use permit as provided in this chapter; provided, that such expansion of a nonconforming use shall not increase the land area devoted to the nonconforming use by more than 150 percent of that in use at the effective date of the nonconformance.

(4) Use established in part but not all of a building at the effective date of the nonconformance may expand within said building by up to 100 percent of the preexisting floor area dedicated to said use upon obtaining a conditional use permit as provided in this chapter. Unlimited expansion within the building shall be permissible upon obtaining a conditional use permit if the original design of the building indicates that it was intended to be ultimately dedicated, in its entirety, to the use in question. (Ord. 2526 § 18, 2004; Ord. 2131, 1997).

19.44.050 Discontinuance or abandonment.

(1) Any nonconforming structure which has been unoccupied for a period of 24 consecutive months, or more, shall lose its nonconforming status and shall not be reoccupied unless and until it is brought into conformity with the current bulk and dimensional requirements of the city codes.

(2) If a nonconforming use is discontinued or abandoned for a period of 12 consecutive months or more, the nonconforming status of the use is terminated, and any future use of the land or structure shall be in conformity with the then-current requirements of the city's land use codes. The mere presence of a structure, equipment or material shall not be deemed to constitute a continuance of a nonconforming use unless the structure, equipment or material is actually being occupied or employed in maintaining such use. (Ord. 2131, 1997).

19.44.060 Conditional uses.

The department shall have authority to grant conditional use permits referred to in this chapter. The procedures used by the department shall comply with Chapter 19.52 MMC. The department shall apply the following criteria:

(1) A nonconforming use or structure should not result in a lack of compatibility with existing and potential uses in the immediate area.

(2) Adverse impacts of a nonconforming use or structure must be mitigated by site design elements such as landscaping, provision for parking, elimination of outside storage, and general visual improvement of the property.

(3) Adequate provisions must be made for public improvements such as sewer, water, drainage, pedestrian circulation and vehicle circulation, both on-site and off-site.

(4) Concerns of adjacent property owners and the general public must be properly considered. (Ord. 2151 § 17, 1997).

19.44.070 Temporary uses – Purpose.

The purpose of this section is to provide for certain temporary uses incidental to the principal long term use of property. Temporary uses are to be permitted only under the conditions as set forth herein, and where it is found that they do not endanger the public health, safety and welfare. (Ord. 2131, 1997).

19.44.080 Temporary uses – Permitted uses.

(1) Permitted Uses. The following temporary uses and structures shall be allowed:

(a) A temporary dwelling for use as a residence by the owners of a lot during construction of a permanent residential structure on the lot. The temporary building need not comply with the requirements of the Uniform Building Code, but shall meet minimum health and safety standards prescribed by the building official. It shall be

removed from the real estate upon completion of the permanent residential structure or after one year, whichever occurs first.

(b) A temporary structure for use by a contractor as a construction shed or office while he is building or remodeling a permanent structure on the same lot. The temporary structure shall not be open to the public. It need not comply with the requirements of the Uniform Building Code, but shall meet health and safety standards prescribed by the building official. It shall be removed from the lot upon completion of the permanent structure or after one year, whichever occurs first.

(c) A temporary structure erected on public property for special occasions such as parades, festivals or other public events; and temporary structures erected on public property to meet extraordinary needs of a public entity which affect the public health, safety or welfare. Such structures need not comply with the requirements of the Uniform Building Code, but shall meet minimum health and safety standards prescribed by the building official. They shall be removed at the conclusion of the special event or upon termination of the extraordinary public need.

(d) A temporary real estate sales office located in a model or display home, subject to the following conditions:

(i) If situated in a residential zone, the office may only be used for sale activities related to the plat in which it is located;

(ii) If situated in a commercial zone, the office may only be used for sales related to the model or display home itself;

(iii) Within a period of one year, the use of the building for a temporary real estate sales office shall terminate, and the building shall be used exclusively thereafter for uses permitted within that zone, and shall meet all building and fire codes applicable thereto, or shall be immediately removed.

(2) Conditional Uses. Because of their size or effect upon surrounding property, the following uses of land may be permitted in any zone allowing residential uses only upon issuance of a conditional use permit. The permit shall not be granted where conditions cannot be imposed which are sufficient to protect public health, safety and welfare:

(a) Temporary dwelling upon the same, or if necessary, contiguous lot (which for this purpose shall become a part of the principal lot) as the principal dwelling for use by only a relative by blood or marriage of the occupants of the principal dwelling, where such relative is to receive from, or administer to, the principal dwelling occupant continuous care and assistance necessitated by advanced age or infirmity, subject to the following minimum conditions:

(i) The permit shall not be granted where other provisions of city ordinance provide a reasonable alternative for meeting the need for the dwelling;

(ii) The need for such continuous care and assistance shall be attested to in writing by a licensed physician;

(iii) The temporary dwelling shall be occupied by not more than two persons;

(iv) Use as a commercial residence is prohibited;

(v) The temporary dwelling shall be situated not less than 20 feet from the principal dwelling on the same lot and shall not be located in any required yard of the principal dwelling;

(vi) A current vehicular license plate, if applicable, shall be maintained during the period of time the temporary unit is situated on the premises;

(vii) Adequate screening, landscaping or other measures shall be provided to protect surrounding property values and insure compatibility with the immediate neighborhood;

(viii) An annual building or mobile home permit renewal for the temporary dwelling shall be required, at which time the property owner shall certify, on a form provided by the planning department, to the continuing need for the temporary dwelling and, in writing, agree that such use of the property shall terminate at such time as the need no longer exists. (Ord. 2131, 1997).

19.44.090 Temporary use variances.

The planning director may, in special hardship cases, administratively grant a variance to the requirement that the temporary dwelling be a mobile home in cases where the temporary dwelling is an already existing single-family residence which will be occupied by a relative by blood or marriage of the occupants of the principal dwelling, where such relative is to receive from or administer to the principal dwelling occupant continuous care and assistance necessitated by advanced age or infirmity. Said variance shall contain any or all of the minimum conditions set forth in MMC 19.44.080(2)(a)(i) through (vii), and shall include as a condition a deed restriction or restrictive covenant executed by the property owner which requires removal of the temporary dwelling upon the death of the relative receiving care, the cessation of occupancy in the temporary dwelling, or the cessation of the infirmity of the relative which required that he or she receive continuous

care and assistance. The applicant shall provide a bond in favor of the city in sufficient amount to cover the cost of removal or demolition of the structure in the event the applicant fails or refuses to do so. As an alternative to removal of the temporary dwelling, the property owner may remove the principal dwelling in place of the temporary dwelling or, within 180 days of the death of the relative or cessation of occupancy, complete the subdivision of the subject property, consistent with all zoning and other land use requirements, so that the temporary dwelling is situated on a separate legal lot and the principal dwelling is situated upon a separate legal lot. In such event, the status of the structure as a temporary dwelling shall cease and the restrictive covenant or deed restriction may be rescinded. The form of said restrictive covenant or deed restriction shall be approved by the city attorney. An applicant aggrieved by the administrative decision of the planning director may, within 10 calendar days of the written decision of the planning director, appeal to the city council by filing a written request with the city clerk. The council shall, within 30 days of the appeal, schedule a public hearing to consider the matter. The decision of the city council shall be final. (Ord. 2131, 1997).

19.44.100 Temporary use permits – Uses requiring permits.

Except as provided by MMC 19.44.110, a temporary use permit shall be required for all permitted and conditional uses listed in MMC 19.44.080. (Ord. 2131, 1997).

19.44.110 Temporary use permits – Exemptions to permit requirement.

(1) The following uses shall be exempt from requirements for a temporary use permit when located in the GC, CB, DC, LI or GI zones when the use does not exceed a total of 14 days each calendar, year whether at the same location in the city or at different locations:

(a) Uses subject to the special events provisions of Ordinance No. 2099;

(b) Community festivals, amusement rides, carnivals, or circuses;

(c) Parking lot sales, except automobile sales; and

(d) Fireworks stands, subject to the provisions of Chapter 9.20 MMC.

(2) Any use not exceeding a cumulative total of two days each calendar year shall be exempt from requirements for a temporary use permit. (Ord. 2131, 1997).

19.44.120 Temporary use permits – Duration and frequency.

Unless specified elsewhere in this chapter, temporary use permits shall be limited in duration and frequency as follows:

(1) The temporary use permit shall be effective for no more than 180 days from the date of the first event or occurrence;

(2) The temporary use shall not exceed a total of 60 days; provided, that this requirement applies only to the days that the event(s) actually takes place;

(3) The temporary use permit shall specify a date upon which the use shall be terminated and removed; and

(4) A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year; provided, that a temporary use permit may be granted for multiple events during the approval period. (Ord. 2131, 1997).

19.44.130 Temporary use permits – Parking.

Parking and access for proposed temporary uses shall be approved by the city. (Ord. 2131, 1997).

19.44.140 Temporary use permits – Traffic control.

The applicant for a proposed temporary use shall provide any parking/traffic control attendants as specified by the city of Marysville. (Ord. 2131, 1997).

Chapter 19.45

RECREATIONAL VEHICLES AND TRAVEL TRAILERS – TEMPORARY PERMITS

Sections:

19.45.010 Permit authorized.
19.45.020 Permit criteria.
19.45.030 Permit applications.
19.45.040 Public notification.
19.45.050 Duration of permit.
19.45.060 Permit revocation.
19.45.070 Appeal.

19.45.010 Permit authorized.

The director of planning, or designee, is authorized to issue or deny permits for temporary placement of recreational vehicles or travel trailers on private property for the purpose of accommodating volunteer labor for the construction of structures on property owned by a duly-organized nonprofit corporation. (Ord. 2261 § 1, 1999).

19.45.020 Permit criteria.

An owner of land which is a duly-organized nonprofit corporation may apply for a permit to allow placement of recreational vehicles or travel trailers on property owned or under its control during construction of a structure on said property. Such permit may be issued upon a showing of all of the following:

(1) Adequate provisions have been made for water, sewer and power.

(2) All persons who occupy the RV or travel trailer are volunteers who shall not be compensated for their labor; provided, however, such volunteers may be reimbursed for out-of-pocket expenses.

(3) The owner of the property upon which the construction activity will occur is a duly-organized nonprofit corporation which has been issued a building permit by the city.

(4) Adequate provision has been made for mitigation of impacts on adjacent properties, including, but not limited to, noise, dust, traffic, and such other impacts as may be identified by the director of planning.

The director of planning shall be authorized to impose such conditions upon the issuance of the permit as will reasonably mitigate the adverse impacts to adjacent properties. In those cases where adverse impacts cannot be mitigated, or in the case where any of the above-referenced qualifying criteria cannot be met, such permit may be denied. (Ord. 2261 § 2, 1999).

19.45.030 Permit applications.

Applications for a temporary permit to place recreational vehicles or travel trailers on private property shall be accompanied by a fee for administrative expenses in the amount of $25.00, shall be on forms provided by the city, and shall contain the following information:

(1) Name, address and telephone number of applicant.

(2) The permit number of the building permit issued by the city for the construction of the applicant's facility.

(3) A site plan showing the location of the area within which recreational vehicles or travel trailers will be placed and a description of each recreational vehicle or travel trailer by license number, make and model, if available.

(4) Names, addresses and driver's license numbers of the owner and occupants of each recreational vehicle or travel trailer within five days of the date the RV or travel trailer is placed upon the property.

(5) Such other information as shall be required upon the application form. (Ord. 2261 § 3, 1999).

19.45.040 Public notification.

Upon receipt of an application for a temporary permit for the placement of recreational vehicles or travel trailers upon private property, the applicant shall provide written notification to property owners within 300 feet of the proposed site. Said notification shall be mailed to all property owners as shown in the records of the Snohomish County auditor's office. The applicant's property shall also be posted in at least two conspicuous places with such signs as the director of planning shall direct. (Ord. 2261 § 4, 1999).

19.45.050 Duration of permit.

No permit issued for the temporary placement of a recreational vehicle or travel trailer on private property shall be issued for a period greater than 20 weeks; provided, however, the permittee may request written extensions of such permit upon a showing that construction activity at the site is ongoing and has not been completed. Extension of the time period for said temporary permit shall be made in writing by the director of planning. In no event shall a permit extend beyond the date of final inspection of the structure by the city. (Ord. 2261 § 5, 1999).

19.45.060 Permit revocation.

The director of planning or designee is authorized to revoke any permit issued pursuant to this chapter if the permitted activity is not carried out in the manner prescribed by the permit or if any of the conditions imposed pursuant to the permit are violated. The applicant shall be notified promptly of the permit revocation. (Ord. 2261 § 6, 1999).

19.45.070 Appeal.

Any applicant who is denied a permit or whose permit is revoked may appeal such decision to the city hearing examiner pursuant to the procedures of MMC 15.11.020 relating to appeals of administrative interpretations and approvals. (Ord. 2261 § 7, 1999).

Chapter 19.46

SPECIAL DISTRICTS AND OVERLAY ZONES

Sections:

19.46.010 Purpose.
19.46.020 Authority and application.
19.46.030 Special districts and overlay zones – General provisions.
19.46.040 Small farms overlay zone.
19.46.050 Special district – Mixed use.
19.46.060 Reserved.
19.46.070 Adult facilities overlay zone.

19.46.010 Purpose.

The purposes of this chapter are to provide for alternative development standards to address unique site characteristics and to address development opportunities which can exceed the quality of standard developments, by:

(1) Establishing authority to adopt property-specific development standards for increasing minimum requirements of the code on individual sites; and

(2) Establishing special districts and overlay zones with alternative standards for special areas designated by the comprehensive plan or neighborhood plans. (Ord. 2131, 1997).

19.46.020 Authority and application.

(1) This chapter authorizes the city of Marysville to increase development standards or limit uses on specific properties beyond the general requirements of the code through property-specific development standards, and to carry out comprehensive plan policies through special districts and overlay zones which supplement or modify standard zones through different uses, design or density standards or review processes.

(2) Special districts and overlay zones shall be applied to specific properties or areas containing several properties through zoning reclassification as provided in Chapter 19.54 MMC. (Ord. 2131, 1997).

19.46.030 Special districts and overlay zones – General provisions.

Special districts and overlay zones shall be designated on the city zoning map as follows:

(1) Designation of a special district or overlay zone shall include policies that prescribe the purposes and location of the overlay;

(2) A special district or overlay zone shall be indicated on the zoning map with the suffix "-SO" following the map symbol of the underlying zone or zones;

(3) The special district or overlay zones set forth in this chapter are the only overlays authorized by the code. New or amended overlays to carry out new or different goals or policies shall be adopted as part of this chapter;

(4) The special districts and overlays set forth in this chapter may expand the range of permitted uses and development standards established by the code for any use or underlying zone; and

(5) Unless they are specifically modified by the provisions of this chapter, the standard requirements of the code and other city ordinances and regulations govern all development and land uses within special districts and overlay zones. (Ord. 2131, 1997).

19.46.040 Small farms overlay zone.

(1) Recitals. Agriculture, whether on a large commercial basis or on a small farm basis, has been a cherished facet of life in the city of Marysville from its beginning. While large-scale commercial farms are disappearing from the area, small farms continue to be a part of life in the city and its environs. Such small farms currently produce vegetables, horses, cattle, Christmas trees, sheep, goats, nursery stock, llamas, poultry, waterfowl, fruit, buffalo, and the like. In addition, small farms provide an opportunity for youth to participate in 4-H and other similar education related activities. Recent public opinion polls and surveys, as well as public testimony have indicated the public strongly support these type of uses be allowed to continue in the Marysville area. In addition, the city wishes to respond to the concerns of the small farm owners located within the urban growth area, but not yet annexed to the city, by adding regulations that minimize adverse impacts on their way of life upon annexation to the city of Marysville.

(2) Purpose. The purpose of the small farms overlay is to provide a process for registering small farms, thereby applying the small farms overlay zone and recording official recognition of the existence of the small farm, and to provide some encouragement for the preservation of such farms, as well as encouraging good neighbor relations between single-family and adjacent development.

(3) Applicability. This code sets forth an administrative process of procedures and standards to be followed in applying for the small farms overlay zone. This overlay zone may be applied to all zones within the city of Marysville.

(4) Definitions.

(a) "Existing and ongoing agricultural activities" means those activities involved in the production of crops and livestock, and changes between agricultural activities and uses, and normal operation, maintenance, repair, or reconstruction of existing serviceable structures, as well as construction of new farm structures, facilities or improved areas. An operation ceases to be ongoing when a formal plat has been approved by the city for development of the small farm.

(b) "New small farm" means the conversion of a property from a nonagricultural activity to one involved in the production of crops and/or livestock, as well as construction of agricultural structures and/or facilities.

(c) "Crops" means all plants grown for human or animal consumption or use.

(d) "Livestock" means all animals commonly raised on farms, whether now or in the future, and includes such animals as emus, ostriches, buffaloes, llamas, and the like, which are not traditional farm animals but are raised on farms throughout the nation. Livestock does not include dogs, cats or exotic animals as defined by city ordinance or state statute.

(5) Permitted Uses in Small Farms Overlay Zone.

Horticulture	P
Floriculture	P
Viticulture	P
Animal husbandry	P
Production of seed, hay and silage	P
Christmas tree farming	P
Aquaculture	P
Roadside stands	P(i)
Single-family, detached	P(ii)

(i) Roadside stands not exceeding 300 square feet in area, exclusively for the sale of products produced on the premises, from the above listed uses. Space adequate for the parking of a minimum of three vehicles shall be provided adjacent to any stand and not less than 20 feet from any street right-of-way.

(ii) One single-family dwelling per lot, together with accessory structures and uses.

(6) Approval Requirements. Administrative approval for the small farms overlay shall be requested by the property owner and shall be granted by the planning director if the following requirements are met:

(a) The minimum lot size shall be 100,000 sq. ft. (2.3 acres). Smaller tracts shall be permitted if such tracts were in existence and in agricultural use on the date the ordinance codified in this chapter is enacted.

(b) The use of the property is an existing and ongoing agricultural activity, as defined in MMC 19.46.040(4), or in the case of a new small farm larger than 2.3 acres, the property will be used for such agricultural activity.

(c) The applicant pays a registration fee of $50.00.

(d) The property owner provides the legal description and street address of the subject property.

(e) In the case of new farms, the applicant shall submit a site plan which includes the following additional information:

(i) Existing and/or proposed structures and required setbacks;

(ii) Drainage channels, water courses, marshes, lakes and ponds;

(iii) Fences, proposed grazing/exercise areas;

(iv) Distance of adjacent dwellings to the subject site's property boundaries and buildings;

(v) Method of manure disposal; and

(vi) Any regulated sensitive area such as wetlands, steep slopes or wildlife habitat.

(7) Small Farm Protections.

(a) All agricultural activities, when conducted consistent with good agricultural practices, are declared to be a permitted activity within the small farms overlay zone, notwithstanding any other section of the code. Agricultural activities undertaken in conformity with all applicable laws and rules are presumed to be good agricultural practices not adversely affecting the public health and safety.

(b) Farm machinery and livestock animal noises emanating from a farm granted the small farms overlay shall be exempt from the city's noise code, Chapter 6.76 MMC; provided, the small farm has been in existence two years prior to the enactment of the ordinance codified in this chapter.

(c) New development occurring next to tracts granted the small farms overlay shall provide adequate fencing and screening consistent with MMC 20.24.300, Divisions of land adjacent to the small farms overlay zone.

(8) Bulk and Dimensional Requirements. Bulk and dimensional requirements shall be consistent with the underlying residential zoning classification, as set forth in Chapter 19.12 MMC.

(9) Notification Requirements. The notification requirements of this section shall apply to new small farms overlay requests, as well as existing

and ongoing agricultural activities which were not granted the small farms overlay during the initial designation process:

(a) Signs. When the planning department determines that the proposed overlay request meets all the requirements as specified in MMC 19.46.040(6), then the applicant shall post the property with a public notice sign. This sign shall be supplied, organized, designed and placed as defined by the city's planning department. All signs designed herein are exempt from the city's zoning and sign codes. All signs required to be posted shall remain in place until the final decision has been reached on the overlay zone. Following the decision, the applicant must remove the sign within 14 calendar days.

(b) Upon receipt of a complete application, the city shall send written notice to adjacent property owners within 300 feet of any portion of the subject property. Notice is deemed sent once placed in the mail.

(c) Upon receipt of a complete application, the city shall cause one notice of application to be published in the official newspaper.

(d) Upon receipt of a complete application, the notice of application shall be posted at Marysville City Hall, at the United States Post Office in the city, and in at least one additional location with public exposure.

(10) Disclosure Text. Subject to subsections (10)(a) and (b) of this section, the following shall constitute the disclosure required by this section for new small farms, development permits, building permits and transfers of real property within the small farms overlay zone:

> Your real property is within, adjacent to, or within 300 feet of property designated as a small farm; therefore, you may be subject to inconveniences or discomforts arising from agricultural activities, including but not limited to noise, odors, fumes, dust, smoke, the operation of machinery of any kind, the storage and disposal of manure, the application by spraying or otherwise of chemical or organic fertilizers, soil amendments, herbicides and pesticides, hours of operation, and other agricultural activities.
>
> Agricultural activities conducted within the overlay zone and in compliance with acceptable agricultural practices and established prior to surrounding nonagricultural activities are presumed to be reasonable and shall not be found to constitute a nuisance unless the activities have a substantial adverse effect on the public health and safety or are clearly not related to the small farm activities.
>
> This disclosure applies to the real property which is subject to a development or building permit as of the date of the development or building permit approval or, in the case of real property transfers, the disclosure applies to the subject property as of the date of the transfer. This disclosure may not be applicable thereafter if areas subject to small farms overlay zone are changed from the small farms overlay designation.

(a) Prior to the closing of a transfer of real property within the overlay zone, or real property adjacent to or within 300 feet of the overlay zone, by deed, exchange, gift, real estate contract, lease with option to purchase, option to purchase, or any other means of transfer or conveyance (except transfers made by testamentary provisions or the laws of descent), the transferor shall provide the transferee a copy of the disclosure text in this section and shall record with the county auditor a copy of the same showing an acknowledgment of receipt executed by the transferee in a form prescribed by the planning director. The form of the acknowledged disclosure text shall include a statement that the disclosure notice applies to the subject real property as of the date of the transfer and may not be applicable thereafter if the overlay designation is removed.

(b) Development permits and building permits for land designated farmland or land adjacent to or within 300 feet of designated farmland shall include the disclosure text in this section on the final development or building permit in a location determined by the planning director. Said disclosure notice shall apply to the real property which is subject to the development or building permit as of the date of development or building permit approval and may not be applicable thereafter if areas designated with the small farms overlay zone are removed from said designation.

(11) Appeals to Hearing Examiner.

(a) All appeals of decisions relating to the small farms overlay zone shall be made to the hearing examiner. Such appeals must be made in writing and filed with the office of the hearing examiner within 14 calendar days from the date on which the decision was rendered.

(b) The written appeal shall include a detailed explanation stating the reason for the appeal. The decision of the hearing examiner shall

constitute a recommendation to the city council, pursuant to MMC 2.70.130.

(c) Standing to appeal is limited to the following: (1) the applicant or owner of the property on which the small farms overlay is proposed; (2) any aggrieved person that will thereby suffer a direct and substantial impact from the proposed overlay zone.

(12) Time Period Stay – Effect of Appeal. The filing of an appeal shall stay the running of the time periods for small farms overlay approval as set forth in this title.

(13) Appeals to Court. Any appeals from a decision approving or disapproving the small farms overlay zone shall be in accordance with the Land Use Petition Act and shall be filed within 21 days of a final city council decision. (Ord. 2131, 1997).

19.46.050 Special district – Mixed use.

(1) The purpose of the mixed use zone (MU) is to provide for pedestrian and transit-oriented high-density employment uses together with limited complementary retail and higher density residential development in locations within activity centers where the full range of commercial activities is not desirable. These purposes are accomplished by:

(a) Allowing for uses that will take advantage of pedestrian-oriented site and street improvement standards;

(b) Providing for higher building heights and floor area ratios than those found in other commercial zones;

(c) Reducing the ratio of required parking-to-building floor area;

(d) Allowing for on-site convenient daily retail and personal services for employees and residents; and

(e) Minimizing auto-oriented, outdoor or other retail sales and services which do not provide for the daily convenience needs of on-site and nearby employees or residents.

(2) Use of this zone is appropriate in areas designated by the comprehensive plan for mixed use which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services.

(3) A tract of land must be in single ownership, or for multiple parcels, under unified control. This requirement shall apply during preliminary and final plan stages to insure continuity of plan development.

(4) A rezone request must be submitted if a site is located in a designated overlay area on the comprehensive plan, and must be accompanied by a preliminary development plan prepared in compliance with the regulations and requirements of this chapter.

(5) Preliminary and final plans must comply with bulk regulations contained in this chapter and Chapter 19.12 MMC.

(6) All proposed sites shall be served by public water and sewer services and paved streets.

(7) General Performance Standards. All development within this zone shall strictly comply with the following general performance standards:

(a) Open space/recreation facilities shall be provided as outlined in Chapter 19.14 MMC.

(b) Vehicular Access and Traffic.

(i) Each project shall be limited to a maximum of two points of vehicular access on any one street unless it can be demonstrated that additional points of vehicular access would not materially impede the flow of traffic on the adjoining streets.

(ii) Developments which provide both residential and nonresidential uses may be eligible for an appropriate traffic mitigation fee reduction.

(iii) Pedestrian access shall be a priority in review of the vehicular access plan.

(iv) Access points on arterial streets shall be coordinated with adjacent properties in order to limit the overall number of access points.

(c) Pedestrian Access. All projects which contain multiple businesses and/or residential uses shall provide an interconnecting pedestrian circulation system. When a proposed development is on an established bus route, the applicant may be required to provide a bus shelter.

(d) Parking. Off-street parking for residential and nonresidential uses shall comply with Chapter 19.18 MMC for off-street parking. Off-street parking requirements are modified as follows for developments within Planning Area 1 (Downtown) as defined in the city's comprehensive plan which provide both residential and nonresidential uses:

(i) No less than one space for every 1,000 square feet of nonresidential floor area shall be provided;

(ii) For duplexes, triplexes, fourplexes, apartments, and condominiums, one space per each studio or one bedroom dwelling unit, and one and one-half spaces per each two or more bedroom units.

(e) Lighting. Outdoor lighting shall not shine on adjacent properties, rotate or flash.

(f) Utilities. All new utility services and distribution lines shall be located underground.

(g) Sidewalks. Sidewalk width requirements shall be increased to a range of seven to 10

feet on streets designated as major pedestrian corridors. For sidewalk widths exceeding the amount required in the city of Marysville street standards, credit will be given on a square footage basis for any dedication of the additional right-of-way.

(h) Signs. Signs shall comply with the requirements of Chapter 19.20 MMC; provided, that pole signs are not allowed.

(i) Standards Incorporated by Reference. Unless specifically superseded by provisions of this chapter, performance standards for residential and commercial development found elsewhere in the Marysville Municipal Code shall apply to such developments in an MU zone, including parking requirements, storm drainage requirements, sign regulations, and noise regulations.

(8) General Design Requirements. All development within this zone shall strictly comply with the following general design requirements:

(a) Vehicular Access and Parking Location.

(i) On sites abutting an alley, apartment and townhome developments shall have parking areas placed to the rear of buildings with primary vehicular access via the alley, except when waived by the planning director due to physical site limitations;

(ii) When alley access is available, and provides adequate access for the site, its use will be encouraged;

(iii) No more than 30 percent of the site street frontage can be used for parking or driveways;

(iv) Direct parking space access to an alley may be used for parking lots with five or fewer spaces.

(b) Every use shall be subject to the pedestrian-oriented development standards outlined in the comprehensive plan (e.g. placement and orientation of buildings with respect to streets and sidewalks, the use of awnings or marquees, and the placement of parking facilities).

(9) Maintenance of Open Space, Landscaping and Common Facilities. The owner of the property, its heirs, successors and assigns, shall be responsible for the preservation and maintenance of all open space, parking areas, walkways, landscaping, fences and common facilities, in perpetuity, at a minimum standard at least equal to that required by the city, and approved by the planning director, at the time of initial occupancy. (Ord. 2298 § 24, 1999; Ord. 2233, 1999; Ord. 2131, 1997).

19.46.060 Reserved.

(Ord. 2131, 1997).

19.46.070 Adult facilities overlay zone.

(1) The purpose of establishing the adult facilities overlay zone is to permit the location of adult facilities in an area of the city which will reduce the secondary effects of such an establishment on the community. The performance criteria included in this zone are intended to control external as well as internal impacts of the development and bulk and special limitations in other chapters of the zoning code are superseded by the provisions of this chapter. It is the further purpose of this zone to prevent the location of adult facilities throughout the city by consolidating them in one area. Because of the unique character of this zone, and its potential to disrupt preexisting residential and commercial development in the community, the city will only consider classifying property in this zone if such property is designated on the comprehensive plan as general industrial and is suitable for adult facilities.

(2) All adult facilities, as defined in this title, shall be subject to the provisions of this chapter.

(3) The adult facilities overlay zone is to be established only upon land located along the east side of the 47th Avenue NE alignment, in the east half of the northeast quarter of Section 33, Township 30 N., Range 5 E., W.M., and in the northeast quarter of the southeast quarter of Section 33, Township 30 N., Range 5 E., W.M., as identified on the Exhibit A map, attached to the ordinance codified in this section.

(4) The following uses shall be permitted in the adult facilities overlay zone:

(a) Adult facilities.

(b) All uses allowed in the underlying zone.

(5) Notwithstanding the provisions of Chapter 19.44 MMC relating to nonconforming uses, any adult facility lawfully existing and operating on the effective date of the ordinance or at the time of annexation of an area into the city may be continued and maintained without regard to the restrictions on adult facilities contained herein on the following conditions:

(a) There may be a change in tenancy, ownership or management of the facility; provided, that there is no change in the nature or character of the business.

(b) If the adult facility or use is vacated, abandoned or closed for a continuous period of 180 days, the nonconforming status shall be lost.

(c) The adult facility or use cannot be expanded into additional buildings or areas of buildings on the property.

(d) All other codes, ordinances, regulations and statutes shall be complied with in full.

(e) All nonconforming adult facilities and uses shall be granted a phase-out period of two years, unless said two-year period is an unreasonable period of amortization for the said use. In that event, a nonconforming adult facility shall make application to the city land use hearing examiner no later than 180 days prior to expiration of the two-year amortization period for an extension of time. The decision of the hearing examiner shall be in accordance with the provisions of Chapter 2.70 MMC. In determining whether to recommend the granting of an extension or not, the hearing examiner shall determine whether or not the harm or hardship to the nonconforming adult facility outweighs the benefit to be gained by the public from termination of the use. Factors to be considered by the examiner include the secondary adverse effects of the business on the neighborhood/community, the location of the business in relationship to schools, parks, churches, athletic facilities, convention facilities and residential zones, initial capital investment, investment realization to date, life expectancy of the investment, the existence or nonexistence of a lease option, as well as a contingency clause permitting termination of the lease, and whether a reasonable alternative use of the property exists.

(6) Violation.

(a) Violation of any of the provisions of this chapter relating to adult facilities is declared to be a public nuisance per se and shall be subject to abatement through civil proceedings and not by criminal prosecution.

(b) Nothing in this code is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates city codes or statutes of the state of Washington regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

(7) Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the enforcement of the remainder of this chapter to any person or circumstances. (Ord. 2131, 1997).

Chapter 19.48

PLANNED RESIDENTIAL DEVELOPMENTS

Sections:

19.48.010 Purpose.
19.48.020 Planned residential development – Site qualifications.
19.48.030 Permitted/conditional uses – Ratio of housing types.
19.48.040 Procedures for review and approval.
19.48.050 Required elements of PRD site plans.
19.48.060 Dispersal of housing types.
19.48.070 Bonuses.
19.48.080 Buffering and screening between housing types.
19.48.090 Compatibility with adjacent land uses.
19.48.100 Open spaces.
19.48.110 Bulk and dimensional requirements.
19.48.120 Preservation of existing features.
19.48.130 Perpetual maintenance of open space and common facilities.

19.48.010 Purpose.

The purpose of this chapter is to permit design flexibility and provide performance criteria which can result in planned residential developments which produce:

(1) A maximum choice in the types of environment and living units available to the public;

(2) Open space and recreation areas;

(3) A pattern of development which preserves trees, outstanding natural topography and geologic features, and prevents soil erosion;

(4) A creative approach to the use of land and related physical development;

(5) An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs;

(6) An environment of stable character in harmony with surrounding development;

(7) A more desirable environment than would be possible through the strict application of other sections of this title.

This chapter is designed to provide for small and large-scale developments incorporating a single type or a variety of housing types and related uses which are planned and developed as a unit. Developments may consist of individual lots or may have common building sites. Commonly owned land must be related to and preserve the long-term value of the residential development. (Ord. 2131, 1997).

19.48.020 Planned residential development – Site qualifications.

(1) The planned residential development designation (PRD) shall be construed as an overlay zoning classification which may be adopted for any area within the city zoned in a residential classification, or designated for residential uses on the comprehensive plan.

(2) The minimum site area of a PRD shall be three acres.

(3) The city may accept PRDs less than three acres in size, but in no case less than one acre in size, provided:

(a) The site has some unique features (slope, vegetation, sensitive area, etc.) which would possibly be destroyed if traditional development techniques were employed; or

(b) The site is located in an area in need of rehabilitation or undergoing rehabilitation and renovation, and the assembling of additional land is not possible. (Ord. 2131, 1997).

19.48.030 Permitted/conditional uses – Ratio of housing types.

(1) The following uses are permitted within a PRD: single-family dwellings, duplexes, attached single-family dwellings up to six units, multiple-family dwellings up to six units per building (only applicable to single-family zoned PRDs), and recreational facilities; provided, that the mix of housing types in a PRD shall be restricted so that not more than 30 percent of all structures, or potential structures, in the single-family zoned PRD and the surrounding residential neighborhood within a 300-foot radius, as a whole, are multiple-family dwellings.

(2) Mobile homes are permitted within a PRD as a conditional use; provided, that the mix of housing types in a PRD shall be restricted so that not more than 30 percent of all structures, or potential structures, in the PRD and the surrounding residential neighborhood within a 300-foot radius, as a whole, are mobile homes. (Ord. 2131, 1997).

19.48.040 Procedures for review and approval.

(1) Rezone Procedures Required. For a PRD overlay designation to be adopted, all procedural requirements specified in this title shall be complied with in full.

(2) Variances. As part of the approval process of a PRD, the city, acting through its hearing examiner and city council, may grant variances to any of the development standards of this chapter. Such variances shall only be granted for the purpose of improving the quality of a PRD under circumstances which are unique to the applicant's property and not generally shared by other properties in the vicinity. No variance shall be granted which would be detrimental to the public health, welfare or environment, or which would be inconsistent with the purposes of this chapter. Each variance shall be considered on a case-by-case basis, and shall not be construed as setting precedent for any other project.

(3) Preliminary Site Plan. A preliminary site plan meeting the requirements of subsection (1) of this section shall be submitted with all applications for a PRD. Said site plan shall be subject to review, modification, approval or denial by the hearing examiner and the city council as an integral part of the PRD process. There shall be no clearing, grading, construction, or other development activities commenced on an approved PRD until the preliminary site plan is upgraded to a final site plan, and the same is approved by the city.

(4) Final Site Plan. Following approval by the city council of a PRD and preliminary site plan, but before development activities commence on the property, the applicant shall submit a final site plan meeting the requirements of MMC 19.48.050(2). The city staff shall review the final site plan to determine whether it conforms to the approved PRD and preliminary site plan, and the applicable state laws and city ordinances which were in effect at the time of the PRD approval. Upon such conformity being found, the final site plan shall be signed by the planning director. An approved final site plan shall constitute an integral part of the PRD zoning overlay, and shall be binding upon the owner of the property, its successors and assigns. All development of a PRD shall be consistent with the final site plan.

(5) Simultaneous Platting – Exemption. A preliminary plat subdividing the subject property pursuant to MMC Title 20 shall be processed simultaneously with the PRD; provided, that if a PRD remains completely under single ownership or control, including ownership by a condominium association, compliance with an approved PRD and final site plan shall preclude the necessity to plat the property or comply with any subdivision laws or ordinances.

(6) Amendment to Final Site Plan. An approved final site plan may be modified or amended at the request of the property owner by administrative action of the city planning director; provided, that if said modification or amendment affects the external impacts of the PRD, or is determined by the planning director to be substantial in nature, then such modification or amendment shall be

resubmitted to the hearing examiner and the city council as a rezone application pursuant to Chapter 19.54 MMC.

(7) Duration of Approval. A PRD and preliminary site plan shall be effective for five years from the date of approval by the city council. An applicant who files a written request with the city council at least 30 days before the expiration of said approval period may be granted a one-year extension upon a showing that the applicant has attempted in good faith to progress with the development of the PRD. During the approval period an applicant must submit and receive approval of a final site plan, and all improvements required by said plan must be completed or bonded. Bonding shall conform to the bonding requirements for plats specified in MMC Title 20.

(8) Completion Prior to Occupancy. All required improvements and other conditions of the PRD and final site plan shall be met prior to occupancy of any dwelling unit in the PRD; provided, that completion may be accomplished by phases if approved by the city.

(9) Compliance. Any use of land which requires a PRD approval, as provided in this chapter, and for which approval is not obtained, or which fails to conform to an approved PRD and final site plan, constitutes a violation of this title. (Ord. 2131, 1997).

19.48.050 Required elements of PRD site plans.

All PRDs shall be subject to site plan approval, as provided above. The following are minimum requirements for site plans and materials supplementing the same:

(1) Preliminary Site Plan.

(a) The title and location of the proposed PRD, together with the names and addresses and telephone numbers of the owners of record of the land and, if applicable, the names, addresses and telephone numbers of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

(b) Where there is multiple ownership, a document satisfactorily assuring unified control through final approval and construction phases;

(c) Statement of intention to formally subdivide the property, if applicable;

(d) Calculation of total land area; gross project area; net project area; net density;

(e) The total number of proposed dwelling units and a description of the housing type for each such unit;

(f) Elevation drawings showing the exterior of all proposed attached dwellings and multiple-family dwellings;

(g) Probable building materials and treatment of exterior surfaces on all proposed multiple-family structures;

(h) Proposed methods to control storm drainage;

(i) Project staging or phases, if any;

(j) Provision for phasing out nonconforming uses;

(k) A vicinity map at a minimum scale of two inches for each mile, showing sufficient area and detail to clearly locate the project in relation to arterial streets, natural features, landmarks and municipal boundaries;

(l) The calculation of the housing-mix ratio within a 300-foot radius of the project, as required by MMC 19.48.030;

(m) The location, identification and dimensions of all existing property lines, streets, alleys and easements, indicating the condition of all public rights-of-way;

(n) Topography sufficient to show direction of drainage and site-development suitability, with contour intervals from five to 20 feet depending upon the slope characteristics, extending not less than 150 feet beyond the boundaries of the project;

(o) Tentative traffic and pedestrian circulation pattern within the development area, showing intended right-of-way widths, and typical cross-sections of all proposed streets and sidewalks;

(p) The location of all existing and proposed structures, proposed lot lines and/or building pads, and major areas intended for open space;

(q) Preliminary landscape plans showing areas to be landscaped, proposed plant height, treatment of existing vegetation, and maintenance provisions;

(r) The location and intended use of recreational areas and facilities;

(s) Such additional detail as city staff reasonably requires.

(2) Final Site Plan.

(a) All elements of the preliminary site plan, as approved by the city council;

(b) Original and proposed topography at maximum five-foot contour intervals, and preservation measures for fill and cut slopes;

(c) A site plan showing street layout and identification, size and shape of all building sites and lots, and location of all building pads, and open space areas with any specific open space activity areas indicated;

(d) The existing edge and width of pavement of any adjacent roadways and all proposed internal streets, off-street parking facilities, driveway approaches, curbing, sidewalks or walkways, street channelization, and type of surfaces;

(e) Typical cross-sections of all internal streets and sidewalks;

(f) Final landscaping plan, including plant locations and species size at planting, together with location and typical side view of perimeter fencing or berms, if any;

(g) Plans for all attached dwellings and multiple-family dwellings and related improvements, to a scale of not less than one inch to 50 feet, showing typical plot plans for each such building, including location of building entrance, driveway, parking, fencing and site screening, and typical elevations of each type of building, including identification of exterior building materials, and roof treatment;

(h) Plans for open space improvements, if any;

(i) Plans for signing and lighting, including typical side view of entrance treatment and entrance signs;

(j) The location of all water mains, valves, fire hydrants, sewer mains, laterals, manholes, pump stations and other appurtenances;

(k) Restrictive covenants as required by MMC 19.48.130, together with a statement from a private attorney as to the adequacy of the same to fulfill the requirements of this chapter;

(l) Detailed drainage plans, including the location of all stormwater drainage facilities, retention/detention ponds and oil/water separators;

(m) A certificate of approval prepared for the signature of the planning director. (Ord. 2131, 1997).

19.48.060 Dispersal of housing types.

When PRDs are located within or adjacent to single-family residential zones and may be surrounded by traditional development with detached dwelling units, PRDs shall be designed and developed so as to be consistent with a single-family residential environment. Attached dwellings and multiple-family dwellings within a PRD should be dispersed throughout the project. (Ord. 2131, 1997).

19.48.070 Bonuses.

The city, in its discretion, may allow an increase in the net density of the project by a factor of up to 20 percent.

(1) A bonus request must comply with the residential density incentive requirements of Chapter 19.26 MMC.

(2) Lot sizes may utilize the R-8 dimensional standards when significant active recreation facilities are provided. (Ord. 2131, 1997).

19.48.080 Buffering and screening between housing types.

Multiple-family dwelling units within a PRD shall be visually segregated from single-family attached or detached dwelling units by the use of vegetation, landscaping, fencing, walls, berms, or other similar methods which are deemed under the circumstances to create effective and aesthetically pleasing screens or buffers between such housing types. (Ord. 2131, 1997).

19.48.090 Compatibility with adjacent land uses.

Any residential development within 100 feet of the perimeter of a PRD must be the same housing type as that of adjacent properties outside of the PRD. (Ord. 2131, 1997).

19.48.100 Open spaces.

(1) A minimum of 15 percent of the gross project area shall be established as open space. Parking areas, driveways, access streets and required yards are not considered to be open space for purposes of this section. Fencing and plant screening shall separate 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. (Ord. 2131, 1997).

19.48.110 Bulk and dimensional requirements.

Except as specifically modified in this section, the bulk and dimensional requirements of Chapter 19.12 MMC shall apply to all development within a PRD.

Detached Single-Family Dwelling Units

	R-4.5-R-6.5 zones	R-8 zone	R-12-28 zones
Minimum lot size	5,000 sq. ft.	4,000 sq. ft.	4,000 sq. ft.
Front/rear yard setback (1)	20 ft.	20 ft.	20 ft.
Side yard setback	5 ft.	5 ft.	5 ft.
Minimum lot width	50 ft.	50 ft.	40 ft.
Maximum building coverage	40%	40%	45%

Attached Single-Family Dwelling Units

	R-4.5-R-6.5 zones	R-8 zone	R-12-28 zones
Minimum lot size	2,000 sq. ft.	2,000 sq. ft.	2,000 sq. ft.
Front/rear yard setback (1)	20 ft.	20 ft.	20 ft.
Side yard setback	None	None	None
Minimum lot width	25 ft.	25 ft.	25 ft.
Maximum building coverage	50%	50%	50%

Multiple-Family Dwelling Units

	R-4.5-R-6.5 zones	R-8 zone	R-12-28 zones
Minimum lot size	–	–	–
Front/rear yard setback (1)	20 ft.	20 ft.	20 ft.
Side yard setback	10 ft.	10 ft.	10 ft.
Minimum lot width	70 ft.	70 ft.	70 ft.
Maximum building coverage	40%	45%	50%

Detached Single-Family Zero Lot Line

	R-4.5-R-6.5 zones	R-8 zone	R-12-28 zones
Minimum lot size	3,500 sq. ft.	3,500 sq. ft.	3,500 sq. ft.
Front/rear yard setback	20 ft.	20 ft.	20 ft.
Side yard setback (2)	0 and 10 ft.	0 and 10 ft.	0 and 10 ft.
Minimum lot width	35 ft.	35 ft.	35 ft.
Maximum building coverage	45%	45%	45%

Duplex Dwelling Units

	R-4.5-R-6.5 zones	R-8 zone	R-12-28 zones
Minimum lot size	7,200 sq. ft.	4,000 sq. ft.	–
Front/rear yard setback (1)	20 ft.	20 ft.	20 ft.
Side yard setback	5 ft.	5 ft.	5 ft.
Minimum lot width	50 ft.	50 ft.	50 ft.
Maximum building coverage	40%	40%	40%

(1) The front yard setback may be reduced to 10 feet provided that at least 20 linear feet of driveway is 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 along the centerline of the driveway from the access point to such garage, carport or fenced area to the street property line. No

more than two consecutive lots may be reduced to 10 feet.

(2) Provided there is a minimum of 10 feet separation between single family structures. (Ord. 2298 § 25, 1999; Ord. 2131, 1997).

19.48.120 Preservation of existing features.

(1) Existing trees and other natural and unique features shall be preserved wherever possible. The location of these features must be considered when planning the open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

(2) The city shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site-clearing of topsoil, trees and natural or unique features before commencement of building operations may disqualify the project as a PRD. (Ord. 2131, 1997).

19.48.130 Perpetual maintenance of open space and common facilities.

Before approval of the final site plan or occupancy of any dwelling units, the applicant shall submit to the city, for its approval, covenants, deed restrictions, homeowner association bylaws, and/or other documents providing for preservation and maintenance of all common open space, private parking areas, walkways, landscaping, signs, lights, roads and community facilities at the cost of the property owners in the PRD. All common areas and facilities shall be continuously maintained at a minimum standard at least equal to that required by the city, and approved by the compliance officer at the time of initial occupancy. (Ord. 2131, 1997).

Chapter 19.50

APPLICATION REQUIREMENTS

Sections:

19.50.010 Specific form and content of application determined.
19.50.020 Initiation of required approvals or permits.
19.50.030 Complete applications.
19.50.035 Vesting.
19.50.040 Modifications to proposal.
19.50.050 Supplemental information.
19.50.060 Oath of accuracy.
19.50.070 Limitations on refiling of applications.

19.50.010 Specific form and content of application determined.

The department shall:

(1) Prescribe, prepare and provide the form on which applications required by this code are made; and

(2) Prescribe the type of information to be submitted by the applicant. (Ord. 2131, 1997).

19.50.020 Initiation of required approvals or permits.

The department shall not commence review of any application set forth in this chapter until the property owner has submitted the materials and fees specified for complete applications. (Ord. 2131, 1997).

19.50.030 Complete applications.

(1) Applications for conditional use permits, variances, and zone reclassifications shall be considered complete as of the date of submittal upon determination by the department that the materials submitted contain the following:

(a) Application forms provided by the department and completed by the applicant;

(b) Certificates of sewer and water availability from the appropriate purveyors, where sewer and/or water service is proposed to be obtained from a purveyor, confirming that the proposed water supply and/or sewage disposal are adequate to serve the development in compliance with adopted state and local system design and operating guidelines;

(c) Identification on the site plan of all easements, deed restrictions, or other encumbrances restricting the use of the property, if applicable;

(d) Proof that the lot or lots are recognized as separate lots pursuant to the provisions of MMC Title 20, Subdivisions;

(e) A sensitive area report, if applicable;

(f) A completed environmental checklist, if required by Chapter 19.22 MMC, Procedures and Policies for Implementing the State Environmental Policy Act;

(g) Payment of any development permit review fees, excluding impact fees; and

(h) Complete applications for other required permits that are required to be processed concurrently with the proposed application, or copies of approved permits that are required to be obtained prior to the proposed application.

(2) Applications found to contain material errors shall not be deemed complete until such material errors are corrected.

(3) The planning director may waive specific submittal requirements determined to be unnecessary for review of an application. (Ord. 2131, 1997).

19.50.035 Vesting.

(1) Only a complete application for a conditional use permit shall be considered under zoning and other land use control ordinances in effect as of the date of submittal.

(2) Supplemental information required after acceptance and vesting of a complete application shall not affect the validity of the vesting for such application.

(3) Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals.

(4) This section vests only conditional use permits. Vesting for other development permits shall be governed by other applicable titles. No rights shall vest by virtue of any application for a zone reclassification. (Ord. 2151 § 18, 1997; Ord. 2131, 1997).

19.50.040 Modifications to proposal.

(1) Modifications to an application required by the city shall not be deemed a new application.

(2) An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application for the purpose of vesting when such modification would result in a substantial increase in a project's impact as determined by the department. Such substantially increased impact may include increases in residential density or traffic generation or a greater than 10 percent increase in building square footage. (Ord. 2131, 1997).

19.50.050 Supplemental information.

(1) The department may cease processing of a complete application while awaiting supplemental information which is found to be necessary for continued review subsequent to the initial screening by the department.

(2) The department shall set a reasonable deadline for the submittal of such supplemental information and shall provide written notification to the applicant by certified mail. An extension of such deadline may be granted upon submittal by the applicant of a written request providing satisfactory justification for an extension.

(3) Failure by the applicant to meet such deadline shall be cause for the department to cancel/deny the application.

(4) When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department's decision regarding that request. (Ord. 2131, 1997).

19.50.060 Oath of accuracy.

The applicant shall attest by written oath to the accuracy and completeness of all information submitted for an application. (Ord. 2131, 1997).

19.50.070 Limitations on refiling of applications.

Upon denial by the city council of a zone reclassification or a conditional use permit, no new application for substantially the same proposal shall be accepted within one year from the date of denial. (Ord. 2131, 1997).

Chapter 19.52

REVIEW PROCEDURES

Sections:

19.52.010 Code compliance review – Actions subject to review.
19.52.020 Reserved.
19.52.030 Planning director review – Decisions and appeals.
19.52.040 Planning director review – Actions subject to review.
19.52.050 Planning director review – Notice requirements and comment period.
19.52.060 Planning director review – Decision or public hearing required.
19.52.070 Planning director review – Additional requirements prior to hearing.
19.52.080 Planning director review – Decision regarding proposal.
19.52.090 Planning director review – Time limitations.

19.52.010 Code compliance review – Actions subject to review.

The following actions shall be subject to the administrative review for determining compliance with the provisions of this title and/or any applicable development conditions which may affect the proposal:

(1) Building permits;

(2) Grading permits; and

(3) Temporary use permits. (Ord. 2131, 1997).

19.52.020 Reserved.

(Ord. 2131, 1997).

19.52.030 Planning director review – Decisions and appeals.

(1) The planning director shall approve with conditions or deny permits based on compliance with this title and any other development conditions affecting the proposal.

(2) Planning director decisions may be appealed to the hearing examiner.

(3) Permits approved through code compliance review shall be effective for the time periods and subject to the terms set out as follows:

(a) Building permits shall comply with Uniform Building Code as adopted by the city of Marysville;

(b) Grading permits shall comply with Chapter 19.28 MMC and the Uniform Building Code as adopted by the city of Marysville; and

(c) Temporary use permits shall comply with Chapter 19.44 MMC. (Ord. 2131, 1997).

19.52.040 Planning director review – Actions subject to review.

The following action shall be subject to the planning director review procedures set forth in this chapter:

(1) Applications for conditional uses. (Ord. 2131, 1997).

19.52.050 Planning director review – Notice requirements and comment period.

(1) The department shall provide published, posted and mailed notice pursuant to MMC Title 15 for all applications subject to planning director review.

(2) Written comments and materials regarding applications subject to planning director review procedures shall be submitted within 15 days of the date of published notice or the posting date, whichever is later. (Ord. 2131, 1997).

19.52.060 Planning director review – Decision or public hearing required.

Following the comment period provided in MMC 19.52.050, the planning director shall:

(1) Review the information in the record and render a decision pursuant to MMC 19.52.080; or

(2) Forward the application to the hearing examiner for public hearing, if:

(a) Adverse comments are received from at least five persons or agencies during the comment period which are relevant to the decision criteria of Chapter 19.54 MMC or state specific reasons why a hearing should be held, or

(b) The planning director determines that a hearing is necessary to address issues of vague, conflicting or inadequate information, or issues of public significance. (Ord. 2131, 1997).

19.52.070 Planning director review – Additional requirements prior to hearing.

When a hearing before the hearing examiner is deemed necessary by the planning director:

(1) Application processing shall not proceed until the supplemental permit review fees set forth in the MMC are received; and

(2) The application shall be deemed withdrawn if the supplemental fees are not received within 30 days of applicant notification by the department. (Ord. 2131, 1997).

19.52.080 Planning director review – Decision regarding proposal.

Decisions regarding the approval or denial of proposals subject to planning director review pursuant to MMC 19.52.040 shall be based upon compliance with the required showings of Chapter 19.54 MMC. (Ord. 2131, 1997).

19.52.090 Planning director review – Time limitations.

Permit approvals which are subject to review per MMC 19.52.040 shall have a time limit of two years from issuance or date of the final appeal decision, whichever is applicable, in which any required conditions of approval must be met; however, conditional use approval for schools shall have a time limit of five years. The time limit may be extended one additional year by the planning director or the hearing examiner if the applicant provides written justification prior to the expiration of the time limit. For the purpose of this chapter, issuance date shall be the date the permit is issued or date upon which the hearing examiner's decision is issued on an appeal of a permit, whichever is later. A permit is effective indefinitely once any required conditions of approval have been met. (Ord. 2131, 1997).

Chapter 19.54

DECISION CRITERIA

Sections:

19.54.010 Purpose.
19.54.020 Reserved.
19.54.030 Temporary use permit.
19.54.040 Variance.
19.54.050 Conditional use permit.
19.54.060 Reserved.
19.54.070 Zone reclassification.
19.54.080 Rezone and review procedures.
19.54.090 Home occupation permit.
19.54.100 Continuing jurisdiction.
19.54.110 Cancellation of decisions.
19.54.120 Transfer of ownership.

19.54.010 Purpose.

The purposes of this chapter are to allow for consistent evaluation of land use applications and to protect nearby properties from the possible effects of such requests by:

(1) Providing clear criteria on which to base a decision;

(2) Recognizing the effects of unique circumstances upon the development potential of a property;

(3) Avoiding the granting of special privileges;

(4) Avoiding development which may be unnecessarily detrimental to neighboring properties;

(5) Requiring that the design, scope and intensity of development is in keeping with the physical aspects of a site and adopted land use policies for the area; and

(6) Providing criteria which emphasize protection of the general character of neighborhoods. (Ord. 2131, 1997).

19.54.020 Reserved.

(Ord. 2131, 1997).

19.54.030 Temporary use permit.

A temporary use permit shall be granted by the city, only if the applicant demonstrates that:

(1) The proposed temporary use will not be materially detrimental to the public welfare;

(2) The proposed temporary use is compatible with existing land use in the immediate vicinity in terms of noise and hours of operation;

(3) Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and

(4) The proposed temporary use is not otherwise permitted in the zone in which it is proposed. (Ord. 2131, 1997).

19.54.040 Variance.

(1) A variance shall be granted by the city, only if the applicant demonstrates all of the following:

(a) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

(b) The variance is necessary because of the unique size, shape, topography, or location of the subject property;

(c) The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

(d) The need for the variance is not the result of deliberate actions of the applicant or property owner;

(e) The variance does not create health and safety hazards;

(f) The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;

(g) The variance does not allow the creation of lots or densities that exceed the base residential density for the zone;

(h) The variance is the minimum necessary to grant relief to the applicant;

(i) The variance from setback or height requirements does not infringe upon or interfere with easements; and

(2) In granting any variance, the city may prescribe appropriate conditions and safeguards that will ensure that the purpose and intent of this title shall not be violated. Violation of such conditions and safeguards when made part of the terms under which the variance is granted is a violation of this title and punishable under MMC Title 4. (Ord. 2131, 1997).

19.54.050 Conditional use permit.

A conditional use permit shall be granted by the city, only if the applicant demonstrates that:

(1) The conditional use is designed in a manner which is compatible with the character and appearance with the existing, or proposed development in the vicinity of the subject property;

(2) The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

(3) The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property, and will be in harmony with the area in which it is to be located and in general conformity with the comprehensive plan of development of Marysville and its environs;

(4) Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

(5) The conditional use will not endanger the public health or safety if located where proposed and developed, and the use will not allow conditions which will tend to generate nuisance conditions such as noise, dust, glare, or vibration;

(6) The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;

(7) The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities;

(8) The use meets all required conditions and specifications set forth in the zone where it proposes to locate;

(9) The use will not be injurious or detrimental to adjoining or abutting property, or that the use is a public necessity;

(10) In addition, the city may impose specific conditions precedent to establishing the use and conditions may include:

(a) Increasing requirements in the standards, criteria or policies established by this title,

(b) Stipulating the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic,

(c) Requiring structural features or equipment essential to serve the same purposes as set forth in subsection (10)(b) of this section,

(d) Imposing conditions similar to those set forth in subsections (10)(b) and (c) of this section, as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance-generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards; and

(11) A conditional use permit to site a secure community transition facility must comply with the following additional criteria:

(a) Before issuance of a conditional use permit, the applicant shall have complied with all applicable requirements for the siting of an essential public facility;

(b) The siting of a secure community transition facility must comply with all provisions of state law, including requirements for public safety, staffing, security, and training, and those standards must be maintained during the duration of the use;

(c) A secure community transition facility should be located on property of sufficient size and frontage to allow the residents an opportunity for secure on-site recreational activities typically associated with daily needs and residential routines;

(d) If state funds are available, the Department of Social and Health Services should enter into a mitigation agreement with the city of Marysville for training and the costs of that training with local law enforcement and administrative staff, and local government staff, including training in coordination, emergency procedures, program and facility information, legal requirements, and resident profiles;

(e) The applicant must show that the property meets all above requirements and, further, if more than one site is being considered, preference must be given to the site furthest removed from risk potential activities or facilities. (Ord. 2453 § 5, 2002; Ord. 2131, 1997).

19.54.060 Reserved.

(Ord. 2131, 1997).

19.54.070 Zone reclassification.

A zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the comprehensive plan and applicable functional plans and complies with the following criteria:

(1) There is a demonstrated need for additional zoning as the type proposed;

(2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties;

(3) There have been significant changes in the circumstances of the property to be rezoned or surrounding properties to warrant a change in classification;

(4) The property is practically and physically suited for the uses allowed in the proposed zone reclassification. (Ord. 2131, 1997).

19.54.080 Rezone and review procedures.

(1) General Procedures. A rezone requires a two-step approval process:

(a) The preliminary plan and rezone application are considered together through the normal rezone process; and

(b) A final plan is reviewed administratively after the rezone has been approved. No development permits shall be issued until a final plan has been approved by the city.

(2) Alternative Procedure – Concurrent Rezone, and Preliminary Subdivision/Binding Site Plan. Concurrent applications for rezone, and preliminary subdivision/binding site may be made, provided that all items required for the entirety of the rezone site are submitted at the time application is made. The rezone application, and preliminary subdivision/binding site plan shall be processed as a master permit application.

(3) City-Initiated Rezone – Alternative Procedure. When recommended by the city comprehensive plan, the city may initiate rezoning as part of the comprehensive plan implementation process. When this alternative is exercised, the provisions of MMC 19.54.080(1) and (2) shall be waived. Prior to development of the site, the developer shall submit a final development plan and fees as required by city codes to the planning department for review and approval. (Ord. 2131, 1997).

19.54.090 Home occupation permit.

A home occupation permit shall be granted by the city only if the applicant demonstrates that the home occupation will be conducted in compliance with the provisions of Chapter 19.32 MMC. (Ord. 2131, 1997).

19.54.100 Continuing jurisdiction.

The hearing examiner shall retain continuing jurisdiction over all variances and conditional use permits. Upon a petition being filed by any person with a substantial and direct interest in a variance or conditional use permit, or by any public official, alleging that a condition has been violated or that modifications to the variance or conditional use permit are necessary, the hearing examiner may call a public hearing for the purpose of reviewing that variance or conditional use permit. Notice of the public hearing shall be as provided in MMC Title 15. Immediately upon a petition for review being accepted by the hearing examiner, the planning director may, for good cause shown, issue a stop work order to temporarily stay the force and effect of all or any part of the variance or conditional use permit in question until such time as the review is finally adjudicated. Following a hearing the hearing examiner may reaffirm, modify or rescind all or any part of the variance or conditional use permit being reviewed. Appeal of the hearing

examiner decision shall be to the superior court pursuant to MMC 15.11.030. (Ord. 2202 § 10, 1998; Ord. 2131, 1997).

19.54.110 Cancellation of decisions.

The decision of the city granting a permit or a variance shall be canceled and automatically become null and void if the owner of the subject property has not obtained a building permit and/or occupancy permit in compliance with the decision within two years from the date of the decision. (Ord. 2131, 1997).

19.54.120 Transfer of ownership.

A variance or conditional use permit runs with the land. Compliance with the conditions of any such variance or permit is the responsibility of the current owner of the property, whether that be the applicant or a successor. (Ord. 2131, 1997).

Chapter 19.55

SITING PROCESS FOR ESSENTIAL PUBLIC FACILITIES

Sections:

19.55.010 Purpose and applicability.
19.55.020 Conditional use permit required.
19.55.030 Siting process initiation.
19.55.040 Optional site consultation process.
19.55.050 EPF conditional use permit procedure.
19.55.060 Independent consultant review.
19.55.070 Decision criteria.
19.55.080 Permit approval.
19.55.090 Reconsideration and optional advisory review process.
19.55.100 Building permit application.

19.55.010 Purpose and applicability.

(1) This chapter establishes a siting process for essential public facilities (EPFs) that are difficult to site.

(a) An EPF is any facility owned or operated by a unit of local or state government, a public utility or transportation company, or any other entity that provides a public service as its primary mission. Examples of EPFs include those facilities that are difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, opiate substitution treatment program facilities and secure community transition facilities as defined in RCW 71.09.020 (RCW 36.70A.200). Essential public facilities such as in-patient facilities including substance abuse facilities, mental health facilities, group homes, etc., which are defined in accordance with the provisions of and judicial interpretations of the Federal Fair Housing Act amendments, 43 USC Section 3604(f)(9), and the Washington Housing Policy Act, RCW 43.185B.005(2), as the same exists or is hereafter amended, are exempt from this chapter.

(b) An EPF may be difficult to site if it requires a unique type of site, is perceived by the public as having significant adverse impacts, or is of a type that has been difficult to site in the past. Health and social service facilities that house persons who constitute a threat to the community as defined in MMC 19.06.496 are automatically determined to be difficult to site.

(2) This siting process is intended to ensure that EPFs, as needed to support orderly growth and delivery of public services, are sited in a timely and

efficient manner. It is also intended to provide the city with additionally regulatory authority to require mitigation of impacts that may occur as a result of EPF siting. Finally, it is intended to promote enhanced public participation that will produce siting decisions consistent with community goals. (Ord. 2488 § 4, 2003; Ord. 2452 § 2, 2002).

19.55.020 Conditional use permit required.

(1) Any EPF that is determined to be difficult to site shall be a conditional use in all zones in which it is listed as a permitted or conditional use in the use matrix, Chapter 19.08 MMC. In the event of a conflict with Chapter 19.08 MMC, the provisions of this section shall govern.

(2) An EPF that is difficult to site must satisfy the requirements of MMC 19.54.050 and the requirements of this chapter. (Ord. 2452 § 2, 2002).

19.55.030 Siting process initiation.

The siting process required by this chapter may be initiated by the project sponsor or by the department.

(1) Sponsor Initiation.

(a) Before applying to site an EPF, a project sponsor may request review under this siting process by submitting a letter to the department that describes the project proposal and why it may be difficult to site.

(b) The department shall transmit the sponsor's letter to the hearing examiner and to Snohomish County Tomorrow (SCT), who may prepare an advisory recommendation on the issue of whether the EPF is difficult to site.

(c) Within 90 days of receiving the sponsor's letter, the hearing examiner shall hold a hearing to determine whether the facility is difficult to site, using the criteria contained in MMC 19.55.010(1)(b). If the examiner determines that the proposed EPF is difficult to site, the project shall be reviewed under the conditional use permit process established in this chapter.

(2) Department Initiation.

(a) If the department receives a permit application involving an EPF that it believes difficult to site, it shall inform the applicant that it cannot accept the application for processing and prepare a memorandum requesting a hearing examiner determination on whether the EPF will be difficult to site.

(b) The department shall transmit this memorandum to the SCT and the hearing examiner, who shall hold a public hearing under subsection (1)(c) of this section.

(c) If the project sponsor and the department agree that the proposed project will be difficult to site, a hearing under subsection (1)(c) of this section will not be required, and the proposal may proceed directly to the conditional use permit procedure described in MMC 19.55.050. (Ord. 2452 § 2, 2002).

19.55.040 Optional site consultation process.

Prior to submitting a conditional use permit application, an EPF sponsor may initiate optional site consultation with the SCT planning advisory committee and/or SCT infrastructure coordinating committee. The consultation process, while not required, is encouraged as a means for project sponsors to present facility proposals, seek information about potential sites, and propose possible siting incentives and mitigation measures for affected jurisdictions. (Ord. 2452 § 2, 2002).

19.55.050 EPF conditional use permit procedure.

(1) The approval process for an EPF conditional use permit shall require a public hearing in front of the hearing examiner.

(2) The conditional use permit application shall include a public participation plan designed to encourage early public involvement in the siting decision and in determining possible mitigation measures.

(3) In addition to the conditional use permit application fee, an additional fee of $1,000 shall be required for the additional costs associated with review of the application under the criteria established in MMC 19.55.070. (Ord. 2452 § 2, 2002).

19.55.060 Independent consultant review.

(1) The department may require independent consultant review of the proposal to assess its compliance with the criteria contained in MMC 19.55.070. For health and social service facilities that house persons who constitute a threat to the community, as defined in MMC 19.06.496, independent consultant analysis shall be required to assess whether the proposed facility is located, constructed and operated in a manner that substantially reduces or compensates for adverse impacts on public health and safety.

(2) If independent consultant review is required, the sponsor shall make a deposit with the department sufficient to defray the cost of such review. Unexpended funds will be returned to the applicant following the final decision on the application. (Ord. 2452 § 2, 2002).

19.55.070 Decision criteria.

An application for conditional use permit approval for any essential public facility determined to be difficult to site must comply with conditional use permit requirements of MMC 19.54.050, any applicable requirements for the proposed use, and the following additional site decision criteria:

(1) The project sponsor has demonstrated a need for the project, as supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed.

(2) The sponsor has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology.

(3) The project is consistent with the sponsor's own long-range plans for facilities and operations.

(4) The sponsor's public participation plan has provided an opportunity for public participation in the siting decision and mitigation measures that is appropriate in light of the project's scope.

(5) The project will not result in a disproportionate burden on a particular geographic area.

(6) The project is consistent with the city's comprehensive plan.

(7) The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements may be determined by the minimum size of the facility, access, support facilities, topography, geology, and onsite mitigation needs.

(8) The project site, as developed with the proposed facility and under the proposed mitigation plan, is compatible with surrounding land uses.

(9) The sponsor has proposed mitigation measures that substantially reduce or compensate for adverse impacts on the environment.

(10) In the case of health and social service facilities that house persons who constitute a threat to the community as defined in MMC 19.06.496, the sponsor has proposed mitigation measures that substantially reduce or compensate for adverse impacts on public health that safety. (Ord. 2452 § 2, 2002).

19.55.080 Permit approval.

If the project sponsor demonstrates compliance with the review criteria listed in MMC 19.55.070 and satisfies the requirements for a conditional use permit in MMC 19.55.050 and other applicable requirements, the conditional use permit application shall be approved. (Ord. 2452 § 2, 2002).

19.55.090 Reconsideration and optional advisory review process.

(1) Reconsideration of the examiner's ruling may be requested as provided in MMC 15.09.060, except that a project sponsor may also request review by an advisory board appointed by SCT. Such a request shall stay the reconsideration period until SCT review is complete.

(2) The advisory board shall complete its review within 60 days of receipt of the request. The SCT advisory board shall not have the authority to overturn a decision, but if the board finds the decision does not accurately reflect the evidence provided by the project sponsor, it may remand the decision to the hearing examiner.

(3) Upon receipt of the advisory board's recommendation, the examiner shall have an opportunity to reconsider the decision in accordance with MMC 15.09.060.

(4) If the project sponsor demonstrates compliance with the review criteria listed in MMC 19.55.070 and satisfies the requirements for a conditional use permit in MMC 19.54.050, and other applicable requirements, the conditional use permit application shall be approved. (Ord. 2452 § 2, 2002).

19.55.100 Building permit application.

(1) Any building permit for an EPF approved under this chapter shall comply with all conditions of approval in the conditional use permit. In the event a building permit for an EPF is denied, the department shall submit in writing the reasons for denial to the project sponsor.

(2) No construction permits may be applied for prior to conditional use approval of the EPF unless the applicant signs a written release acknowledging that such approval is neither guaranteed nor implied by the department's acceptance of the construction permit applications. The applicant shall expressly accept all financial risk associated with preparing and submitting construction plans before the final decision is made under this chapter. (Ord. 2452 § 2, 2002).

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Chapter 19.56

AMENDMENTS

Sections:
19.56.010 Purpose.
19.56.020 Authority and application.
19.56.030 Required findings.
19.56.040 Burden of proof.

19.56.010 Purpose.

After reviewing the planning commission's recommendation concerning a proposed amendment, the city council may amend, supplement, or change by ordinance, any of the provisions herein. (Ord. 2131, 1997).

19.56.020 Authority and application.

Amendments to the text of this title may be initiated by the city council, the planning commission, city staff, or petition submitted by a citizen. (Ord. 2131, 1997).

19.56.030 Required findings.

Amendments to the text to this title may be made if all the following findings are made:

(1) The amendment is consistent with the purposes of the comprehensive plan;

(2) The amendment is consistent with the purpose of this title;

(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. (Ord. 2131, 1997).

19.56.040 Burden of proof.

The applicant must demonstrate that the proposed amendment meets the conditions of the required findings above. (Ord. 2131, 1997).

Chapter 19.58

ENFORCEMENT

Sections:
19.58.010 Purpose.
19.58.020 Authority and application.
19.58.030 Violations defined.

19.58.010 Purpose.

The purpose of this chapter is to promote compliance with this title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in Chapter 19.58 MMC, Enforcement, when violations of this title occur. (Ord. 2131, 1997).

19.58.020 Authority and application.

The planning director is authorized to enforce the provisions of this code, any implementing administrative rules, and approval conditions attached to any land use approval, through revocation or modification of permits, or through the enforcement provisions of Chapter 4.02 MMC. (Ord. 2131, 1997).

19.58.030 Violations defined.

No building permit or land use approval in conflict with the provisions of this title shall be issued. Structures or uses which do not conform to this title, except legal nonconformances specified in Chapter 19.44 MMC and approved variances, are violations subject to the enforcement provisions of Chapter 4.02 MMC. (Ord. 2131, 1997).

Chapter 19.60

PLANNING, ZONING AND LAND USE FEES

Sections:
19.60.010 Purpose.
19.60.020 *Repealed*.

19.60.010 Purpose.

The purpose of this chapter is to establish a comprehensive schedule of fees for various applications and permits authorized pursuant to MMC Titles 18, 19 and 20. It is also the purpose of this chapter to consolidate the various fees for applications into one single chapter and to provide for a schedule of fees which make it possible to locate and identify within one section of the city's code the applicable fees for certain applications and permits. (Ord. 2131, 1997).

19.60.020 Schedule of fees.

Repealed by Ord. 2555. (Ord. 2298 § 26, 1999; Ord. 2151 §§ 19, 20, 1997; Ord. 2131, 1997).

Title 20

SUBDIVISIONS

Chapters:

Article I. Subdivisions and Short Subdivisions

20.04 General Provisions
20.08 Definitions
20.12 Preliminary Subdivision Review
20.16 Final Subdivision Review
20.20 Short Subdivision Review
20.24 Land Division Requirements
20.28 Tax Segregated Lots
20.32 Modifications and Variances
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Article II. Binding Site Plan

20.44 General Provisions
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Article III. Boundary Line Adjustments

20.72 General Provisions
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Article I. Subdivisions and Short Subdivisions

Chapter 20.04

GENERAL PROVISIONS

Sections:
20.04.010 Title.
20.04.020 Authority.
20.04.030 Purpose.
20.04.040 Jurisdiction.
20.04.050 Applicability – Exemptions.

20.04.010 Title.

This article shall be known as the subdivision ordinance of the city. (Ord. 1986, 1994).

20.04.020 Authority.

These regulations are authorized by Chapter 58.17 RCW and other applicable state laws and city ordinances. (Ord. 1986, 1994).

20.04.030 Purpose.

(1) The purpose of these regulations is to regulate the division of land and to promote the public health, safety and general welfare in accordance with standards established by the state and city; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to provide for adequate provisions for water, sewer, parks and recreation areas, sites for school and school grounds and other public requirements; to provide proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions, and short subdivisions; to adequately provide for the housing and commercial needs of the citizens of the city; to promote design that is compatible with the natural environment; and to require uniform monumenting of land and conveyancing by accurate legal description.

(2) It is further the purpose of these regulations to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these regulations.

(3) It is the specific intent of these regulations to place the obligation of complying with its requirements upon the property owner and applicant and no provision or term used in these regulations is intended to impose any duty whatsoever upon the city or any of its officers, employees or agents for whom the implementation or enforcement of these regulations shall be discretionary and not mandatory.

(4) Nothing contained in these regulations is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure to comply with these regulations, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of these regulations, or by reason of any action or inaction on the part of the city related in any manner of the enforcement of these regulations by its officers, employees or agents. (Ord. 1986, 1994).

20.04.040 Jurisdiction.

These regulations shall apply to all divisions of all lands within the incorporated area of the city. (Ord. 1986, 1994).

20.04.050 Applicability – Exemptions.

(1) Divisions of Land – Compliance with State Law and This Title. Every division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership shall proceed in compliance with the provisions of state law and this title. All contiguous parcels of land, regardless of date of acquisition or location in different lots, tracts, parcels, tax lots or separate government lots, that are to be subdivided or short subdivided shall constitute a single subdivision or short subdivision action. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for comprehensive subdividing or short subdividing in accordance with the requirements of this title.

(2) Exemptions.

(a) The provisions of this title as they relate to subdivisions shall not apply to:

(i) Cemeteries and other burial plots while used for that purpose;

(ii) A division made by testamentary provisions, or the laws of descent;

(iii) Boundary line adjustments pursuant to the city boundary line adjustment ordinance;

(iv) A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW (Horizontal Property Regimes Act) or Chapter 64.34 RCW (Condominium Act) if the city has approved a binding site plan for all such

land, and the requirements of RCW 58.17.040(7) have been met;

(v) A division of land into lots, tracts or parcels classified for business, commercial and industrial use pursuant to the city's binding site plan ordinance;

(vi) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are to be placed upon the land when a binding site plan has been approved by the city for the use of the land, pursuant to Chapter 19.30 MMC, Mobile/Manufactured Homes and Chapter 19.31 MMC, Recreational Vehicle Parks.

(b) The provisions of this title as they relate to short subdivisions shall not apply to:

(i) Cemeteries and other burial plots while used for that purpose;

(ii) A division made by testamentary provisions, or the laws of descent;

(iii) Boundary line adjustments pursuant to the city boundary line adjustment ordinance;

(iv) A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW (Horizontal Property Regimes Act) or Chapter 64.34 RCW (Condominium Act) if the city has approved a binding site plan for all such lands, and the requirements of RCW 58.17.040(7) have been met;

(v) A division of land into lots, tracts or parcels classified for business, commercial and industrial use pursuant to the city's binding site plan ordinance;

(vi) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are to be placed upon the land when a binding site plan has been approved by the city for the use of the land, pursuant to Chapter 19.30 MMC, Mobile/Manufactured Homes and Chapter 19.31 MMC, Recreational Vehicle Parks; and

(vii) A division or redivision of land for the purpose of sale, lease or transfer of ownership which is done in accordance with the subdivision requirements of this title; and

(viii) A division of land for city governmental purposes limited to the acquisition of land for right-of-way and detention facilities.

(3) The exemptions provided herein shall not be construed as exemptions from compliance with all other applicable standards required by the city and state. (Ord. 1986, 1994).

Chapter 20.08

DEFINITIONS

Sections:

20.08.010 Adjacent property owners.
20.08.020 Aggrieved person.
20.08.030 Applicant.
20.08.040 Binding site plan.
20.08.050 Block.
20.08.060 Bond.
20.08.070 Building setback line.
20.08.080 Building site.
20.08.090 City.
20.08.100 City standards.
20.08.110 Comprehensive plan.
20.08.120 Contiguous parcels.
20.08.130 Cul-de-sac.
20.08.140 Dedication.
20.08.150 Dedicatory statement.
20.08.160 Division of land.
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20.08.250 Owner.
20.08.260 Panhandle lot.
20.08.270 Person.
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20.08.310 Public improvements.
20.08.320 Redivision.
20.08.330 Request for final approval.
20.08.340 Short plat.
20.08.350 Short subdivision.
20.08.360 Subdivision.
20.08.370 Subdivision and short subdivision certificate.
20.08.380 Suitable guarantee.
20.08.390 Zoning ordinance.

20.08.010 Adjacent property owners.

"Adjacent property owners" means the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. In the case of a mortgage company or bank, the occupant of the site address shall also be included. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of

real property which lie adjacent to the real property proposed to be subdivided, notice shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided. (Ord. 1986, 1994).

20.08.020 Aggrieved person.

"Aggrieved person" means one whose proprietary, pecuniary or personal rights would be substantially affected by a particular action as determined by the hearing examiner. (Ord. 1986, 1994).

20.08.030 Applicant.

"Applicant" means any person or legal entity proposing a division of land. (Ord. 1986, 1994).

20.08.040 Binding site plan.

"Binding site plan" means a drawing to scale done in accordance with the requirements of the city's binding site plan ordinance, Chapter 20.44 MMC. (Ord. 1986, 1994).

20.08.050 Block.

"Block" means a group of lots, tract or parcels within well-defined and fixed boundaries. (Ord. 1986, 1994).

20.08.060 Bond.

See "suitable guarantee," MMC 20.08.360. (Ord. 1986, 1994).

20.08.070 Building setback line.

"Building setback line" means a line establishing the minimum distance a building may be located from any property line, improvements, rights-of-way, stream, drainage way, steep slope or other boundaries or potential hazards. (Ord. 1986, 1994).

20.08.080 Building site.

"Building site" means an area identified on the face of the proposed plat and short plat establishing buildable areas. (Ord. 1986, 1994).

20.08.090 City.

For the purpose of this article, "city" shall be the city of Marysville. (Ord. 1986, 1994).

20.08.100 City standards.

"City standards" means the engineering design and development standards as published by the department of public works. (Ord. 1986, 1994).

20.08.110 Comprehensive plan.

"Comprehensive plan" means a document or series of documents adopted by city council that sets forth broad guidelines and policies for the development of the city. (Ord. 1986, 1994).

20.08.120 Contiguous parcels.

"Contiguous parcels" means land adjacent to other land which is under the same ownership and not separated by public right-of-way. (Ord. 1986, 1994).

20.08.130 Cul-de-sac.

"Cul-de-sac" (court or dead end street) means a short street having one end open to traffic and being permanently or temporarily terminated by a vehicle turn-around. (Ord. 1986, 1994).

20.08.140 Dedication.

"Dedication" means the deliberate appropriation of land by its owner for any general and public use, reserving no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. (Ord. 1986, 1994).

20.08.150 Dedicatory statement.

"Dedicatory statement" means a statement or representation on the final plat of those conditions and restrictions required to appear on the face of the final plat as a condition of plat approval. (Ord. 1986, 1994).

20.08.160 Division of land.

"Division of land" means any segregation not otherwise exempt as provided for under the provisions of this title which alters the shape, size or legal description of any part of any owner's land. A tax segregation does not constitute a division of land for the purpose of meeting the requirements of Chapter 58.17 RCW and this title. (Ord. 1986, 1994).

20.08.170 Engineering feasibility study.

"Engineering feasibility study" means a report prepared by a licensed professional engineer qualified by training to have expert engineering knowledge of a particular subject. The report will identify the capability of the land to withstand disturbance, such as erosion, sedimentation, geological hazards, or other aspects of the development. (Ord. 1986, 1994).

20.08.180 Final approval.

"Final approval" means the final official action

taken by the city on a proposed subdivision, or short subdivision where all the conditions of preliminary approval have been met. (Ord. 1986, 1994).

20.08.190 Final plat.

"Final plat" means the final permanent reproducible drawing and dedication of the subdivision required for filing for record with the county auditor and containing all elements and requirements set forth in state law and in this title. (Ord. 1986, 1994).

20.08.200 Final short plat.

"Final short plat" means the final permanent reproducible drawing and dedication of the short subdivision required for filing for record with the county auditor and containing all elements and requirements set forth in state law and this title. (Ord. 1986, 1994).

20.08.210 Hearing examiner.

"Hearing examiner" means the land use hearing examiner for the city. (Ord. 1986, 1994).

20.08.220 Improvement.

"Improvement" means any structure or work constructed including, but not limited to, buildings, roads, storm drainage systems, sanitary sewage facilities, water mains, pedestrian and landscaping improvements. (Ord. 1986, 1994).

20.08.230 Lot.

"Lot" means a fractional part of divided lands having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, parcels and sites. (Ord. 1986, 1994).

20.08.240 Nonresidential division of land.

"Nonresidential division of land" means the subdividing of business, commercial and industrial property done in accordance with the city's subdivision or binding site plan ordinance. (Ord. 1986, 1994).

20.08.250 Owner.

"Owner" means any person or legal entity having property vested as a fee owner, seller, purchaser, mortgagor, beneficiary or any other, whose interest controls the disposition of property. The term owner shall not include any interest which is acquired solely through the execution of an earnest money agreement, or persons who are easement beneficiaries. (Ord. 1986, 1994).

20.08.260 Panhandle lot.

"Panhandle lot" means a division of land where the front and rear lots conforms to zoning code requirements for lot dimensions and lot sizes except for the panhandle. The panhandle is a narrow strip of land which does not, itself, meet the full frontage or width requirements of a lot and will be utilized principally for access purposes from an improved public right-of-way. (Ord. 1986, 1994).

20.08.270 Person.

For the purpose of this title the term "person" includes, but is not limited to, the following: individuals, corporations, associations and partnerships. (Ord. 1986, 1994).

20.08.280 Plat.

"Plat" means the map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications. (Ord. 1986, 1994).

20.08.290 Preliminary approval.

"Preliminary approval" means an official action on a proposed subdivision or short subdivision that refers to placement of specific conditions which must be complied with before final approval may be granted. (Ord. 1986, 1994).

20.08.300 Preliminary plat or short plat.

"Preliminary plat" or "preliminary short plat" means a neat and accurate drawing of a proposed subdivision or short subdivision, showing the general layout of streets, lots, blocks, existing and proposed easements, and other elements consistent with the requirements of this title. (Ord. 1986, 1994).

20.08.310 Public improvements.

"Public improvements" include but are not limited to streets, roads, storm drainage systems, sanitary sewage facilities, water mains pedestrian and landscaping improvements which comply with adopted city standards and are dedicated to the city for public use. (Ord. 1986, 1994).

20.08.320 Redivision.

"Redivision" means the division of land in an approved subdivision or short subdivision. (Ord. 1986, 1994).

20.08.330 Request for final approval.

"Request for final approval" means a request made by the applicant for final approval of a division of land, when the applicant has completed all

the requirements of preliminary approval. (Ord. 1986, 1994).

20.08.340 Short plat.

"Short plat" means the map or representation of a short subdivision, showing thereon the division of land into lots, blocks, streets and alleys or other divisions and dedications. (Ord. 1986, 1994).

20.08.350 Short subdivision.

"Short subdivision" means the division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership. (Ord. 1986, 1994).

20.08.360 Subdivision.

"Subdivision" means the division or redivision of land into 10 or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. (Ord. 1986, 1994).

20.08.370 Subdivision and short subdivision certificate.

"Subdivision and short subdivision certificate," means a report by a title insurance company certifying the title of lands as described and shown on the subdivision or short subdivision plat is in the name of the owners signing the final map or declaration of ownership. (Ord. 1986, 1994).

20.08.380 Suitable guarantee.

"Suitable guarantee" means an acceptable guarantee to the city to ensure performance and/or warranty of improvements. (Ord. 1986, 1994).

20.08.390 Zoning ordinance.

"Zoning ordinance" means city of Marysville zoning code, MMC Title 19. (Ord. 1986, 1994).

Chapter 20.12

PRELIMINARY SUBDIVISION REVIEW

Sections:

20.12.010 Preapplication requirements.
20.12.020 Application – Submittal.
20.12.030 Review process – Reports by city departments.
20.12.040 Review process – Staff report – Requirements.
20.12.050 Review process – Staff report – Hearing examiner's agenda.
20.12.060 Review process – Public hearing.
20.12.070 Public hearing – Hearing examiner duty.
20.12.080 Public hearing – Elements considered.
20.12.090 Hearing examiner decision – Requirements.
20.12.100 Hearing examiner decision – Records.
20.12.110 Approval of preliminary subdivision – Effect.
20.12.120 Limitations on approval.

20.12.010 Preapplication requirements.

(1) Preapplication Meeting. Prior to submittal of a subdivision application for consideration by the city, the applicant may request a preapplication meeting with the city staff on the express condition, that the city, its officers, employees shall be held harmless and released from any claims for damages arising from discussions at said preapplication meeting. The city shall provide written comments to the applicant, and may discuss the general goals and objectives of the proposal, the overall design possibilities, the general character of the site, environmental constraints and standards of development. The focus of the meeting shall be general in nature and none of the discussions shall be interpreted as a commitment by the city or applicant. No statements or assurances made by city representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of all pertinent city, state and federal codes, laws, regulations and land use plans.

(2) Preliminary Drawing.

(a) The applicant shall provide an accurate preliminary drawing to scale showing lot layout, existing and proposed building location, size, access, utilities, open space, water sources, adjacent land use and five foot contours. This drawing must be provided before a preapplication meeting will be scheduled.

(b) The applicant shall also provide a legal description of the property, a vicinity map. (Ord. 1986, 1994).

20.12.020 Application – Submittal.

(1) Fees. The applicant shall pay the required fees as set forth in the city's fee schedule or other applicable resolutions or ordinances when submitting the subdivision application.

(2) Application Documents. A subdivision application shall consist of the following documents: application form, legal description, vicinity map, declaration of ownership form, proposed preliminary plat map, adjacent property owners form and environmental checklist. The city shall provide the above-stated forms and application instructions for required documents, which shall be used by the applicant.

(3) Preliminary Plat Map. The proposed preliminary plat map shall be submitted which contains the following information:

(a) The name or title of the proposed subdivision;

(b) The date, north arrow, and appropriate engineering scale as approved by the planning department (e.g., one inch equals 20 feet; one inch equals 30 feet; one inch equals 40 feet; one inch equals 50 feet; one inch equals 60 feet);

(c) Boundary lines of tract, lot lines, lot number, block number;

(d) Location and name of existing and proposed streets and right-of-way;

(e) Drainage channels, water courses, marshes, lakes and ponds;

(f) All significant wooded areas as characterized by evergreen trees eight inches in diameter or greater and/or deciduous trees 12 inches in diameter or greater, measured four and one-half feet above grade;

(g) Existing structures and setbacks;

(h) The location of existing driveways;

(i) All easements and uses;

(j) Existing and proposed utilities services;

(k) Fire hydrant location and distance;

(l) Grading plans with topographic relief of:

(i) Less than five percent across the subject property should reflect existing and proposed topography at two-foot elevations;

(ii) Less than two percent across the subject property should reflect existing and proposed contours at two-foot elevations, as well as spot elevations on a 25-foot grid reflecting existing and developed properties;

(iii) Less than 15 percent should reflect existing and proposed topography at five-foot elevations;

(iv) Equal to or greater than 15 percent across the subject property should reflect existing and proposed contours at five-foot elevations. Cross-sections reflecting existing and developed conditions at intervals of 25 feet to 50 feet should be provided to facilitate the preservation of natural topography. Driveway profiles should be provided that reflect the maximum vertical grade of 15 percent for the driveway and include reasonable transitions and landings to promote safe access from the right-of-way to the driveway. This may necessitate identifying maximum and minimum finished floor elevations for garages;

(v) Critical slopes exceeding 25 percent must be labeled and delineated by a clearly visible hatching;

(m) Preliminary street profile together with a preliminary storm drainage plan and report;

(n) A typical cross-section of the proposed street improvements;

(o) Any regulated sensitive area such as wetlands, steep slopes or wildlife habitat;

(p) All contour lines shall be extended at least 100 feet beyond the external boundaries of the property proposed for subdivision;

(q) Grading plans shall take into consideration MMC 20.24.060, Building design with natural slope.

(4) Additional Application Requirements. If the city finds the presence of any of the following site conditions, then the city may require the applicant to provide additional information such as detailed studies and site plans:

(a) Site has existing slopes exceeding 15 percent for more than 50 (running) feet;

(b) Site has a permanent drainage course or wetlands;

(c) Conditions exist on the site or in the area adjacent to the site which may contribute to or cause erosion, drainage problems, surface slippage or other geological hazards;

(d) Site has other unique physical features or sensitive features;

(e) The subdivision will result in 10 or more peak-hour vehicular trips onto public streets, or sight distance/safety concern.

(5) Subdivisions Processed Simultaneously. Unless an applicant for preliminary subdivision approval requests otherwise, a preliminary plat shall be processed simultaneously with any application for rezones, variances, planned residential development site plans, street vacations and simi-

lar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing. (Ord. 2435 § 1, 2002; Ord. 1986, 1994).

20.12.030 Review process – Reports by city departments.

(1) If the application meets all the requirements specified in MMC 20.12.020 then the application shall be deemed complete and the planning department shall circulate copies of the preliminary subdivision application to relevant city departments and affected agencies. The department or agency shall review the preliminary subdivision and furnish the planning department with a report as to the effect the proposed subdivision may have upon their area of responsibility and expertise. The reports submitted shall include recommendations as to the extent and types of improvements to be provided.

(2) Once the city receives a complete application for a subdivision which is located adjacent to state highway right-of-way, the city shall give written notice of the application, including legal description and location map, to the Department of Transportation. The state shall comment, within 14 calendar days of receiving the notice, regarding the effect the subdivision may have relevant to access to state highway. (Ord. 1986, 1994).

20.12.040 Review process – Staff report – Requirements.

The planning department shall prepare a written recommendation for the hearing examiner for approval or disapproval of the preliminary subdivision which shall be entitled "staff report," and which shall include the reports and recommendations of the city departments and of other consulted government agencies. This report shall be prepared at least seven calendar days prior to the public hearing. (Ord. 1986, 1994).

20.12.050 Review process – Staff report – Hearing examiner's agenda.

The application for the preliminary subdivision along with the staff report shall be placed on the hearing examiner's agenda. (Ord. 1986, 1994).

20.12.060 Review process – Public hearing.

Notice of the public hearing shall conform to the following:

(1) Notice shall be published not less than 10 calendar days prior to the public hearing in a newspaper of general circulation within the city.

(2) Adjacent property owners, as defined in this title, located within 300 feet of any portion of the boundary of the property to be subdivided as identified on the property owners form, shall be notified by mail not less than 15 calendar days prior to the public hearing.

(3) The applicant shall post the property with a sign at least 10 calendar days prior to the public hearing. This sign shall be organized, designed and placed as defined by the city's planning department. All signs described herein are exempt from the city's zoning and sign codes. All signs required to be posted shall remain in place until the final decision has been reached on the preliminary subdivision. Following that decision, the applicant must remove the sign within 14 calendar days. (Ord. 1986, 1994).

20.12.070 Public hearing – Hearing examiner duty.

After notice of the public hearing has been given per MMC 20.12.060 the hearing examiner will consider the proposed subdivision and its compliance with MMC 20.12.080. (Ord. 1986, 1994).

20.12.080 Public hearing – Elements considered.

The following shall provide a basis for approval or disapproval of a proposed subdivision:

(1) Public Use and Interest. Evaluation of the proposed subdivision to determine whether the public use and interest are served by permitting the proposed subdivision;

(2) Public Health, Safety and General Welfare. Evaluation of the proposed subdivision to determine whether the public health, safety and general welfare has been served;

(3) Comprehensive Plan. Evaluation of all elements of the comprehensive plan and its consistency with the proposed subdivision;

(4) Existing Zoning. Evaluation of existing zoning and its compliance with the proposed subdivision and Chapter 20.24 MMC;

(5) Natural Environment. Evaluation of the impacts and provision for mitigation of all impacts on all elements of the natural environment including topography, vegetation, soils, geology and all environmental issues as defined in the State Environmental Policy Act, Chapter 197-11 WAC and Chapter 20.24 MMC;

(6) Drainage. Evaluation of all drainage impacts and provisions made for mitigation of all drainage impacts as defined in the city's drainage codes and Chapter 20.24 MMC;

(7) Open Space. Evaluation of all impacts and provision for open space as defined in Chapter 20.24 MMC;

(8) Public Systems Capacity. Evaluation of all impacts and provisions made for mitigation of impacts on public systems including parks, schools, and community facilities as defined in Chapter 20.24 MMC;

(9) Public Services. Evaluation of all impacts and provisions made for mitigation of impacts on public services including streets, all public utilities, fire and police protection as defined in Chapter 20.24 MMC;

(10) Floodplain. Identification of subdivisions proposed in the floodplain and compliance with requirements of this title and Ordinance No. 1339 as amended, codified in Chapter 16.32 MMC. (Ord. 1986, 1994).

20.12.090 Hearing examiner decision – Requirements.

(1) If the hearing examiner finds that appropriate provisions have been made according to MMC 20.12.080, then the hearing examiner may determine that the subdivision be approved. If the hearing examiner finds that the subdivision does not conform with the provisions of MMC 20.12.080, and the public use and interest will not be served, then the hearing examiner may disapprove the same or return the application to the applicant for modification and conditions for approval.

(2) Each decision of the hearing examiner shall be in writing and shall include findings and conclusions based on the record to support the decision. Each decision of the hearing examiner shall be rendered within 15 calendar days following conclusion of all testimony and hearings, unless a longer period is mutually agreed to by the applicant and the hearing examiner.

(3) The decision made by the hearing examiner shall be final with a right to appeal to superior court pursuant to MMC 15.11.030. (Ord. 2202 § 11, 1998; Ord. 1986, 1994).

20.12.100 Hearing examiner decision – Records.

All records of the hearing examiner's decision concerning a preliminary subdivision shall be open to public inspection at the planning department offices. (Ord. 1986, 1994).

20.12.110 Approval of preliminary subdivision – Effect.

Approval of the preliminary subdivision shall constitute authorization for the applicant to develop the subdivision facilities and improvements as required in the approved preliminary subdivision. Development shall be in strict accordance with the plans and specifications as approved by the public works department and shall be subject to any conditions imposed by the hearing examiner and city council. (Ord. 1986, 1994).

20.12.120 Limitations on approval.

Final subdivision approval must be acquired within five years of preliminary approval, after which time the preliminary subdivision approval is void. The five-year time frame shall commence from the effective date of the ordinance or resolution approving the subdivision. An extension may be granted by the city council for one year if the applicant has attempted in good faith to submit the final plat within the five-year time period; provided, however, the applicant must file a written request with the city council requesting the extension at least 30 days before expiration of the five-year period. (Ord. 2527 § 1, 2004; Ord. 2090, 1996; Ord. 1986, 1994).

Chapter 20.16

FINAL SUBDIVISION REVIEW

Sections:

20.16.010 Compliance with preliminary approval required.
20.16.020 Plat map – Requirements.
20.16.030 Dedications.
20.16.040 Acknowledgments and certifications.
20.16.050 Documents required – Subdivision title report.
20.16.060 Documents required – Restrictions and covenants.
20.16.070 Documents required – Survey.
20.16.080 Review process – Action by city staff.
20.16.090 Review process – Action by city council.
20.16.100 Time limits for action.
20.16.110 Filing original plat and copies.
20.16.120 Valid land use – Governed by terms of final approval.

20.16.010 Compliance with preliminary approval required.

Prior to the submittal of any preliminary subdivision to the city for final approval, the applicant must demonstrate compliance with all of the conditions of the preliminary approval and prepare all the necessary final documents. (Ord. 1986, 1994).

20.16.020 Plat map – Requirements.

The final plat shall be drawn on mylar drafting film having dimensions of 18 inches by 24 inches with a two-inch border on the left edge and one-half inch borders on the other edges. Information required shall include, but not be limited to:

(1) The name of the subdivision;

(2) Legal description of the entire parcel to be subdivided;

(3) The date, north arrow, and appropriate engineering scale as approved by the planning department (e.g., 1" = 20', 1" = 30', 1" = 40', 1" = 50', 1" = 60');

(4) Boundary lines, right-of-way for streets, easements, and property lines of lots and other sites with accurate bearings, dimensions or angles and arcs, and of all curve data;

(5) Names and right-of-way widths of all streets within the subdivision and immediately adjacent to the subdivision. Street names shall be consistent with the names of existing adjacent streets;

(6) Number of each lot consecutively;

(7) Reference to covenants and special plat restrictions either to be filed separately or on the face of the plat:

(8) Zoning setback lines, building sites when required by city;

(9) Location, dimensions and purpose of any easements, noting if the easements are private or public;

(10) Location and description of monuments and all lot corners set and found;

(11) Primary control points, and datum elevations if applicable, approved by the public works department. Descriptions and ties to all control points will be shown with dimensions, angles and bearings;

(12) Existing structures, all setbacks, and all encroachments. (Ord. 1986, 1994).

20.16.030 Dedications.

(1) All streets, highways and parcels of land shown on the final plat and intended for public use shall be offered for dedication for public use, except where the provisions of this title provide otherwise.

(2) Streets, or portions of streets, may be required to be set aside by the city for future dedication where the immediate opening and improvement is not required, but where it is necessary to ensure that the city can later accept dedication when the streets become needed for future development of the area or adjacent areas.

(3) Easements being dedicated shall be indicated on the face of the plat as follows: an easement shall be reserved for and granted to all utilities serving the subject plat and their respective successors and assigns, under and upon the exterior 10 feet parallel with and adjoining the street frontage of all lots in which to install, lay, construct, renew, operate and maintain underground conduits, cables, pipe and wires with necessary facilities and other equipment for the purpose of serving this subdivision and other property with electric, telephone and utility service together with the right to enter upon the lots at all times for the purposes herein stated. Drainage easements designated on the plat are hereby reserved for and granted to the city of Marysville, except those designated on the plat as private easements, together with the right of ingress and egress and the right to excavate, construct, operate, maintain, repair and/or rebuild an enclosed or open-channel storm water conveyance system and/or other drainage facilities, under, upon or through the drainage easement. (Ord. 1986, 1994).

20.16.040 Acknowledgments and certifications.

Acknowledgments and certificates required by this title shall be in language substantially similar to that indicated in the following subsections:

(1) Dedications. The intention of the owner shall be evidenced by his presentation for filing of a final plat clearly showing the dedication thereof and bearing the following certificate signed by all real parties of interest:

> Know all men by these presents that _____ the undersigned owner(s), in fee simple of the land hereby platted, and _____, the mortgage thereof, hereby declare this plat and dedicate to the use of the public forever all streets, avenues, places and sewer easements or whatever public property there is shown on the plat and the use for any and all public purposes not inconsistent with the use thereof for public highway purposes. Also, the right to make all necessary slopes for cuts and fills upon lots, blocks, tracts, etc. shown on this plat in the reasonable original grading of all the streets, avenues, places, etc. shown hereon. Also, the right to drain all streets over and across any lot or lots where water might take a natural course after the street or streets are graded. Also, all claims for damage against any governmental authority are waived which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of said roads.
>
> Following original reasonable grading of the roads and ways hereon, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way to hamper proper road drainage. The owner of any lot or lots, prior to making any alteration in the drainage system after the recording of the plat, must make application to and receive approval from the director of the department of public works for said alteration. Any enclosing of drainage waters in culverts or drains or re-routing thereof across any lot as may be undertaken by or for the owner of any lot shall be done by and at the expense of such owner. IN WITNESS WHEREOF we set our hands and seals this ___ day of ____, 19__.

In the event that a waiver of right of direct access is included, then the certificate shall contain substantially the following additional language:

> That said dedication to the public shall in no way be construed to permit a right of direct access to street from lots numbered nor shall the city of Marysville or any other local governmental agency ever be required to grant a permit to build or construct an access of approach to said street from said lots.

(2) Acknowledgment.

> STATE OF WASHINGTON)
> : ss.
> COUNTY OF SNOHOMISH)
>
> This is to certify that on this ___ day of ____, 19__, before me, the undersigned, a notary public, personally appeared _____, to me known to be the person(s) who executed the foregoing dedication and acknowledgment to me that signed the same as _____ free and voluntary act and deed for the uses and purposes therein mentioned.
>
> Witness my hand and official seal the day and year first above-written.
>
> NOTARY PUBLIC in and for the State of Washington, residing at
>
> _____
> (Seal)

(3) Restrictions. The following restrictions shall show on the face of the final plat:

(a) "No further subdivision of any lot without resubmitting for formal plat procedure."

(b) "The sale or lease of less than a whole lot in any subdivision platted and filed under Title 20 of the Marysville Municipal Code is expressly prohibited except in compliance with Title 20 of the Marysville Municipal Code."

(c) The following shall be required when the plat contains a private road:

> The cost of construction and maintaining all roads not herein dedicated as public roads shall be the obligation of all of the owners and the obligation to maintain shall be concurrently the obligation of any corporation in which title of the roads and streets may be held. In the event that the owners of any lots served by the roads or streets of this plat shall petition the council to include these roads or streets in the public road system, the petitioners shall be obligated to bring the same to city road

standards applicable at the time of petition in all respects, including dedication of rights-of-way, prior to acceptance by the city.

(d) "All landscaped areas in public rights-of-way shall be maintained by the developer and his successor(s) and may be reduced or eliminated if deemed necessary for or detrimental to city road purposes."

(e) "The location and height of all fences and other obstructions within an easement as dedicated on this plat shall be subject to the approval of the Director of Public Works or his designee."

(4) Approvals.

(a) "Examined and approved this ____ day of ____, 20__.

_____
City Engineer, City of Marysville"

(b) "Examined and approved this _____ day of ____, 20__.

_____
Planning Director, City of Marysville"

(c) "Examined, found to be in conformity with applicable zoning and other land use controls, and approved this _____ day of ____, 20__.

_____ _____
Mayor Attest: City Clerk"

(5) Certificates.

(a) "I hereby certify that the plat of _____ is based upon an actual survey and subdivision of Section ____, Township ____ North, Range ___ EWM as required by the state statutes; that the distances, courses and angles are shown thereon correctly; that the monuments shall be set and lot and block corners shall be staked correctly on the ground, that I fully complied with the provisions of the state and local statutes and regulations governing platting.

_____
Licensed Land Surveyor (Seal)"

(b) "I hereby certify that all state and county taxes heretofore levied against the property described herein, according to the books and records of my office, have been fully paid and discharged, including _____ taxes.

_____
Treasurer, Snohomish County"

(c) "Filed for record at the request of ____ this ____ day of ____, 20__, at ____ minutes past ___m, and recorded in Vol. ____ of Plats, page ____, records of Snohomish County Washington.

_____
Auditor, Snohomish County"

(Ord. 2373 § 1, 2001; Ord. 1986, 1994).

20.16.050 Documents required – Subdivision title report.

All final subdivision applications shall be accompanied by a title company certification current to within 30 days from filing of final plat; provided, however, the applicant shall be responsible for updating the title report to ensure that it is current as of the time of final plat review. This report must confirm that the title of the lands as described and shown on the subdivision plat is in the name of the owners signing the plat map. (Ord. 1986, 1994).

20.16.060 Documents required – Restrictions and covenants.

The applicant shall submit copies of restrictions and covenants, if any, proposed to be imposed upon the use of the land. Such restrictions and covenants, if not on the face of the plat must be recorded prior to or simultaneously with the subdivision. (Ord. 1986, 1994).

20.16.070 Documents required – Survey.

The final plat must be accompanied by a complete survey in accordance with MMC 20.24.270. (Ord. 1986, 1994).

20.16.080 Review process – Action by city staff.

(1) Applicants for final subdivision approval shall file their final plats meeting all the requirements of Chapter 58.17 RCW and this title with the city's planning department. The planning department shall review the final plat and circulate it to other city departments to determine whether the requirements of this title have been met.

(2) The planning director and city engineer shall determine whether requirements of this title have been met. If the requirements have been met, they shall certify that the proposed final plat meets the requirements of Chapter 58.17 RCW and this title, and forward a complete copy of the proposed plat to city council.

(3) If either the planning director or the city engineer determine that the requirements of this title have not been met, the final plat shall be returned to the applicant for modification, correction or other action as may be required for approval; provided, that the final plat shall be forwarded to the city council together with the determinations of the planning director and the city engineer, upon written request of the applicant.

(4) Pursuant to the requirements of RCW 58.17.150, neither the planning director nor the city engineer shall modify the requirements made in the hearing examiner approval of the preliminary plat when making recommendations on the

final plat without the consent of the applicant, except as provided in Chapter 58.17 RCW. (Ord. 1986, 1994).

20.16.090 Review process – Action by city council.

(1) For the purposes to ensure all conditions have been met, the city council shall determine, at a public meeting, whether the subdivision proposed for final subdivision approval conforms to all terms of preliminary approval, and whether the subdivision meets the requirements of this title, applicable state laws and all other local ordinances adopted by the city which were in effect at the time of preliminary approval.

(2) If the conditions have been met, the city council shall authorize the mayor to inscribe and execute their written approval on the face of the plat map. If the city council disapproves the plat, it will be returned to the applicant with reasons for denial and conditions for compliance. (Ord. 1986, 1994).

20.16.100 Time limits for action.

Final subdivisions shall be approved, disapproved or returned to the applicant within 30 calendar days from date of filing the final subdivision for approval by the city council, unless the applicant consents to an extension of such time period in writing. The 30-day time period shall not commence to run until the applicant files with the city all required final subdivision documents completed to the satisfaction of the city. (Ord. 1986, 1994).

20.16.110 Filing original plat and copies.

When the city council finds that the subdivision proposed for final approval has met all the conditions of final approval, then the applicant shall give the original plat of said final subdivision for recording to the Snohomish County auditor. The applicant will also furnish the city with one reproducible mylar copy of the recorded plat and one blue line copy. (Ord. 1986, 1994).

20.16.120 Valid land use – Governed by terms of final approval.

As required by RCW 58.17.170, a subdivision shall be governed by the terms of the approval of the final plat, and any lots created thereunder shall be a valid land use notwithstanding any change in zoning laws for a period of no less than five years from date of filing, unless the city council finds that a change in conditions in subdivision creates a serious threat to the public health or safety. (Ord. 1986, 1994).

Chapter 20.20

SHORT SUBDIVISION REVIEW

Sections:

20.20.010 Applicability – Lot number requirement.
20.20.020 Preapplication requirements.
20.20.030 Application submittal.
20.20.040 Review process – City department action – State action.
20.20.050 Review process – State Environmental Policy Act.
20.20.060 Review process – Elements considered.
20.20.070 Review process – Decision by city.
20.20.080 Time limits for action.
20.20.090 Final submittal – Preliminary approval compliance.
20.20.100 Final submittal – Short plat.
20.20.110 Final submittal – Vicinity map.
20.20.120 Final submittal – Restrictions and covenants.
20.20.130 Final submittal – Short subdivision title report.
20.20.140 Final submittal – Legal descriptions.
20.20.150 Final submittal – Declaration of ownership.
20.20.160 Final submittal – Contiguous parcel owners.
20.20.170 Final submittal – Survey.
20.20.180 Final approval – Procedure.
20.20.190 Recording requirement.
20.20.200 Resubdivision restrictions.

20.20.010 Applicability – Lot number requirement.

Every division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership shall proceed in compliance with the provisions of this chapter. (Ord. 1986, 1994).

20.20.020 Preapplication requirements.

(1) Preapplication Meeting. Prior to submittal of a short subdivision application for consideration by the city, the applicant may request a preapplication meeting with the city staff on the express conditions that the city, its officers, employees, shall be held harmless and released from any claims for damages arising from discussions at said preapplication meeting. The city shall provide written comments to the applicant, and may discuss the general goals and objectives of the proposal, the overall design possibilities, the general character of the

site, including environmental constraints, and development. The focus of the meeting shall be general in nature and none of the discussions shall be interpreted as a commitment by the city or applicant. No statements or assurances made by city representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of all pertinent city, state and federal codes, laws, regulations and land use plans.

(2) Preliminary Drawing.

(a) The applicant shall provide an accurate drawing showing proposed lot layout, existing building location, size, access, utilities location, open space and adjacent land use. This drawing must be provided to the city before a preapplication meeting may be scheduled.

(b) The applicant shall also provide a legal description of the property and a vicinity map. (Ord. 1986, 1994).

20.20.030 Application submittal.

(1) Fees. The applicant shall pay the required fees when submitting the short subdivision application.

(2) Application Documents. A short subdivision application shall consist of the following documents: application form, legal description form, declaration of ownership form, vicinity maps, proposed plat map, adjacent property owners form and environmental checklist. The city shall provide the above stated forms and application instructions for required documents, in which event they shall be used by the applicant.

(3) Preliminary Short Plat Map. The proposed preliminary short plat map shall be submitted which contains the following information:

(a) The name or title of the proposed short subdivision;

(b) The date, north arrow and appropriate engineering scale as approved by the planning department (e.g., 1" = 20', 1" = 30', 1" = 40', 1" = 50', 1" = 60');

(c) Boundary lines of tract, lot lines, lot number, block number;

(d) Location and name of existing and proposed streets and right-of-way;

(e) Drainage channels, water courses, marshes, lakes and ponds;

(f) All significant wooded areas as characterized by evergreen trees eight inches in diameter or greater and/or deciduous trees 12 inches in diameter or greater, measured four and one-half feet above grade;

(g) Existing structures and setbacks;

(h) The location of existing driveways;

(i) All easements and uses;

(j) Existing and proposed utilities services;

(k) Fire hydrant location and distance;

(l) Five-foot contour lines;

(m) Preliminary street profile together with a preliminary grading and storm drainage plan;

(n) A typical cross-section of the proposed street improvements;

(o) Any regulated sensitive area such as wetlands, steep slopes or wildlife habitat.

(4) Additional Application Requirements. If the city finds the presence of any of the following site conditions, then the city may require the applicant to provide additional information such as detailed studies and site plans.

(a) Site has existing slopes exceeding 15 percent for more than 50 (running) feet;

(b) Site has permanent drainage course or wetlands;

(c) Conditions exist on the site or in the area adjacent to the site which may contribute to or cause erosion, drainage problems, surface slippage or other geological hazards;

(d) Site has other unique physical features or sensitive features;

(e) The subdivision will result in 10 or more peak-hour vehicular trips onto public streets, or sight distance/safety concern.

(5) Subdivisions Processed Simultaneously. Unless an applicant for preliminary short subdivision approval requests otherwise, a preliminary short plat shall be processed simultaneously with any application for rezones, variances, planned residential development site plans, street vacations and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing. (Ord. 1986, 1994).

20.20.040 Review process – City department action – State action.

(1) If the preliminary short subdivision application meets all the requirements specified in MMC 20.20.030 then the application shall be deemed complete and, the planning department shall circulate copies of the short subdivision application to relevant city departments who shall review the short subdivision and furnish the planning department with a report as to the effect of the proposed short subdivision upon the public health, safety and general welfare, and containing their recommendations as to the approval of the short subdivision. The report submitted shall include recommenda-

tions as to the extent and types of improvements to be provided.

(2) The applicant shall post the property with notice signage upon official acceptance of the application. This sign shall be supplied, organized, designed and placed as defined by the city's planning department. All signs described herein are exempt from the city's zoning and sign codes. All signs required to be posted shall remain in place until the final decision has been reached on the preliminary short subdivision. Following that decision, the applicant must remove the sign within 14 calendar days.

(3) The city shall send notice to adjacent property owners within 300 feet of any portion of the subject property. Notice is deemed sent once placed in the mail.

(4) Any individual shall have 14 working days from the date of mailing in which to submit written comments to the planning department concerning the proposed short subdivision.

(5) Once the city receives a complete application for a short subdivision which is located adjacent to state highway right-of-way, the city shall give written notice of the application, including legal description and location map, to the Department of Transportation. The state shall comment, within 14 calendar days of receiving the notice, regarding the effect the short subdivision may have relevant to access to state highway. (Ord. 1986, 1994).

20.20.050 Review process – State Environmental Policy Act.

SEPA review is required. If specific uses are not known at the time of application, worst case impacts will be used. (Ord. 1986, 1994).

20.20.060 Review process – Elements considered.

The following shall provide a basis for approval or disapproval of proposed short subdivision:

(1) Public Use and Interest. Evaluation of the proposed short subdivision to determine whether the public use and interest are served;

(2) Public Health, Safety and General Welfare. Evaluation of the proposed subdivision to determine whether the public health, safety and general welfare has been served and that the subdivision is consistent with the requirements of RCW 58.17.110;

(3) Comprehensive Plan. Evaluation of all elements of the comprehensive plan and its consistency with the proposed short subdivision;

(4) Existing Zoning. Evaluation of existing zoning and its compliance with the proposed short subdivision and Chapter 20.24 MMC;

(5) Natural Environment. Evaluation of the impacts and provision for mitigation of all impacts on all elements of the natural environment including topography, vegetation, soils, geology and all environmental issues as defined in the state Environmental Policy Act, Chapter 197-11 WAC and Chapter 20.24 MMC;

(6) Drainage. Evaluation of all drainage impacts and provisions made for mitigation of all drainage impacts as defined in the city's comprehensive drainage ordinance and Chapter 20.24 MMC;

(7) Open Space. Evaluation of all impacts and provision for open space as defined in Chapter 20.24 MMC;

(8) Public Systems Capacity. Evaluation of all impacts and provisions made for mitigation of impacts on public systems including parks, schools and community facilities as defined in Chapter 20.24 MMC;

(9) Public Services. Evaluation of all impacts and provisions made for mitigation of impacts on public services including streets, all public utilities, fire and police protection as defined in Chapter 20.24 MMC;

(10) Floodplain. Identification of short subdivisions proposed in the floodplain and compliance with requirements of this title and Ordinance No. 1339 as amended, codified in Chapter 16.32 MMC;

(11) Sidewalks. Pursuant to RCW 58.17.060 (2) the applicant shall be required to show that sidewalks are provided to assure safe walking conditions for students who walk to and from school. (Ord. 1986, 1994).

20.20.070 Review process – Decision by city.

(1) If the city engineer and planning director find that appropriate provisions have been made according to MMC 20.20.060, then the short subdivision may be granted preliminary approval. If the city engineer and planning director find that the short subdivision does not make the appropriate provision for MMC 20.20.060, the city may disapprove or return it to the applicant for modification and conditions for approval.

(2) The preliminary short subdivision decision shall be in writing and shall include findings of fact and conclusions.

(3) Approval of the preliminary short subdivision by the planning director and city engineer shall constitute authorization for the applicant to develop the short subdivision facilities and

improvements as required in the approved preliminary short subdivision. (Ord. 1986, 1994).

20.20.080 Time limits for action.

(1) Approval Within 60 Calendar Days. Preliminary short subdivisions shall be approved, disapproved or returned to the applicant within 60 calendar days from the date of filing a complete application, unless the applicant consents to a written extension of such time period; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the time period shall not include the time spent preparing and circulating the EIS.

(2) Limitation on Approval.

(a) Where there are no required public improvements, final short subdivision approval must be obtained within one year of the city's preliminary approval, after which time the preliminary short subdivision approval is void.

(b) Where there are required public improvements, final short subdivision approval must be obtained within three years of the city's preliminary approval, after which time the preliminary short subdivision approval is void, provided that an applicant who files a written request with the planning director at least 30 days before the expiration of this three-year period may be granted a one-year extension upon a showing that the applicant has attempted in good faith to submit the final short plat within the three-year period.

(3) A short subdivision application shall not be deemed filed until all of the application requirements of this title have been met at which time the city shall indicate by sending a letter to the applicant within 21 calendar days from receipt of the application.

(4) Records. All records of the proceedings concerning the preliminary short subdivision shall be kept in the planning department. (Ord. 1986, 1994).

20.20.090 Final submittal – Preliminary approval compliance.

Prior to the submittal of any final short subdivision to the city for final approval, the applicant must demonstrate compliance with the conditions of the preliminary approval and prepare and complete to the satisfaction of the city all of the final documents. (Ord. 1986, 1994).

20.20.100 Final submittal – Short plat.

The final short plat drawings shall be on mylar drafting film having the dimensions of 18 by 24 inches. Information required shall include:

(1) The date, north arrow, and appropriate engineering scale as approved by the planning department (e.g., 1″ = 20′, 1″ = 30′, 1″ = 40′, 1″ = 50′, 1″ = 60′);

(2) Boundary lines, right-of-way for streets, easements, and property lines of lots and other sites with accurate bearings, dimensions or angles and arcs, and of all curve data;

(3) Names and right-of-way widths of all streets within the short subdivision and immediately adjacent to the subdivision. Street names will be consistent with the names of existing adjacent streets;

(4) Number of each lot consecutively;

(5) Reference to private covenants or special plat restrictions either to be filed separately or on the face of the plat;

(6) Zoning setback lines, building sites when required by the city;

(7) Existing structures, all setbacks, and all encroachments;

(8) Location, dimensions and purpose of any easements;

(9) Location and description of monuments and lot corners set and found;

(10) Primary control points, and datum elevations if applicable, approved by the public works department. Descriptions and ties to all control points will be shown with dimensions, angles and bearings;

(11) The final short plat will also contain the following:

(a) Dedications. The intention of the owner shall be evidenced by his presentation for filing of a final short plat clearly showing the dedication thereof and bearing the following certificate signed by all real parties of interest:

> Know all men by these presents that _____ the undersigned owner(s), in fee simple of the land hereby platted, and _____, the mortgage thereof, hereby declare this short plat and dedicate to the use of the public forever all streets, avenues, places and sewer easements or whatever public property there is shown on the short plat and the use for any and all public purposes not inconsistent with the use thereof for public highway purposes. Also, the right to make all necessary slopes for cuts and fills upon lots, blocks, tracts, etc. shown on this short plat in the reasonable original grading of all the streets, avenues, places, etc. shown hereon. Also, the right to drain all streets over and across any lot or lots where water

might take a natural course after the street or streets are graded. Also, all claims for damage against any governmental authority are waived which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of said roads.

Following original reasonable grading of the roads and ways hereon, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way to hamper proper road drainage. The owner of any lot or lots, prior to making any alteration in the drainage system after the recording of the short plat, must make application to and receive approval from the director of the department of public works for said alteration. Any enclosing of drainage waters in culverts or drains or re-routing thereof across any lot as may be undertaken by or for the owner of any lot shall be done by and at the expense of such owner.

IN WITNESS WHEREOF we set our hands and seals this ____ day of ____, 20__.

In the event that a waiver of right of direct access is included, then the certificate shall contain substantially the following additional language:

That said dedication to the public shall in no way be construed to permit a right of direct access to _____ street from lots numbered ____ nor shall the city of Marysville or any other local governmental agency ever be required to grant a permit to build or construct an access of approach to said street from said lots.

(b) Acknowledgment.

STATE OF WASHINGTON)
: ss.
COUNTY OF SNOHOMISH)

This is to certify that on this ____ day of ____, 20__, before me, the undersigned, a notary public, personally appeared _____, to me known to be the person(s) who executed the foregoing dedication and acknowledgment to me that _____ signed the same as _____ free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year first above-written.

NOTARY PUBLIC in and for the State of Washington, residing at _____

(Seal)

(c) Restrictions. The following restrictions shall show on the face of the final short plat:

(i) "No further subdivision of any lot without resubmitting for formal plat or revised short plat consistent with Title 20 of the Marysville Municipal Code."

(ii) "The sale or lease of less than a whole lot in any subdivision platted and filed under Title 20 of the Marysville Municipal Code is expressly prohibited except in compliance with Title 20 of the Marysville Municipal Code."

(iii) The following shall be required when the short plat contains a private road:

The cost of construction and maintaining all roads not herein dedicated as public roads shall be the obligation of all of the owners and the obligation to maintain shall be concurrently the obligation of any corporation in which title of the roads and streets may be held. In the event that the owners of any lots served by the roads or streets of this short plat shall petition the council to include these roads or streets in the public road system, the petitioners shall be obligated to bring the same to city road standards applicable at the time of petition in all respects, including dedication of rights-of-way, prior to acceptance by the city.

(iv) "All landscaped areas in public rights-of-way shall be maintained by the developer and his successor(s) and may be reduced or eliminated if deemed necessary for or detrimental to city road purposes."

(v) "The location and height of all fences and other obstructions within an easement as dedicated on this plat shall be subject to the approval of the Director of Public Works or his designee."

(d) Approvals.

(i) "Examined and approved this____ day of ____, 20__.

_____
City Engineer, City of Marysville"

(ii) "Examined and approved this____ day of ____, 20__.

_____
Planning Director, City of Marysville"

(e) Certificates.

(i) "I hereby certify that the short plat of ____ is based upon an actual survey and subdivision of Section ___, Township ___ North, Range ___ EWM as required by the state statutes; that the distances, courses and angles are shown thereon correctly; that the monuments shall be set and lot and block corners shall be staked correctly on the ground, that I fully complied with the provisions of the state and local statutes and regulations governing platting.

_____
Licensed Land Surveyor
(Seal)"

(ii) "I hereby certify that all state and county taxes heretofore levied against the property described herein, according to the books and records of my office, have been fully paid and discharged, including ____ taxes.

_____
Treasurer, Snohomish County"

(iii) "Filed for record at the request of ____ this ____ day of ___, 20__, at ___ minutes past __m, and recorded in Vol. __ of Plats, page __, records of Snohomish County, Washington.

_____
Auditor, Snohomish County"

(Ord. 2373 § 2, 2001; Ord. 1986, 1994).

20.20.110 Final submittal – Vicinity map.

A vicinity sketch clearly identifying the location of the property must be prepared and completed. (Ord. 1986, 1994).

20.20.120 Final submittal – Restrictions and covenants.

Copies of restrictions and covenants, if any, proposed to be imposed upon the use of the land must be prepared and completed. (Ord. 1986, 1994).

20.20.130 Final submittal – Short subdivision title report.

All final short subdivision applications shall be accompanied by a title company certification current to within 30 days from filing of final short plat; provided, however, the applicant shall be responsible for updating the title report to ensure that it is current of the time of final short plat review. This report must confirm that the title of the lands as described and shown on the declaration of ownership is in the name of the owners signing the declaration. (Ord. 1986, 1994).

20.20.140 Final submittal – Legal descriptions.

All final short subdivision applications shall have a legal description of the entire parcel to be short subdivided, each lot, easement and tract to be created and shall be on forms acceptable to the city and stamped "Registered Land Surveyor." (Ord. 1986, 1994).

20.20.150 Final submittal – Declaration of ownership.

All final short subdivision applications shall be accompanied by notarized signatures of all owners that have interest in the property to be short subdivided on the declaration of ownership form provided by the city. If the plat is subject to a dedication, the certificate listed in MMC 20.20.100 (11)(a) or a separate written instrument shall also contain the dedication of all streets and other areas to the public, an individual or individuals, religious society or societies or to any corporation, public or private or other legal entity as shown on the short plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of the road. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the land subdivided and recorded as part of the final short plat. (Ord. 1986, 1994).

20.20.160 Final submittal – Contiguous parcel owners.

Name and address of contiguous parcel owners on the property owner's form must be prepared and completed. (Ord. 1986, 1994).

20.20.170 Final submittal – Survey.

Final short plats must be accompanied by a complete survey in accordance with MMC 20.24.270. (Ord. 1986, 1994).

20.20.180 Final approval – Procedure.

(1) The planning director and public works director shall determine that the short subdivision proposed for final approval conforms to all the terms of preliminary approval, and that the short subdivision meets the requirements of this title, applicable state laws and all other local ordinances adopted by the city which were in effect at the time of preliminary approval.

(2) If the conditions have been met, the planning director and public works director shall inscribe and execute their written approval on the face of the plat map. (Ord. 1986, 1994).

20.20.190 Recording requirement.

When the city finds that the short subdivision proposed for final approval meets all the conditions of final approval and the requirements of this title and state law and all other local ordinances adopted by the city which were in effect at the time of preliminary approval, then the applicant shall record the original of said final short subdivision with the county auditor. The applicant must provide the city with a mylar copy of the recorded short plat before the short subdivision becomes valid. (Ord. 1986, 1994).

20.20.200 Resubdivision restrictions.

(1) Land within an approved short subdivision shall not be resubdivided for a period of five years from the date of final approval of the short subdivision without the submission and approval of a final subdivision pursuant to all provisions of this title concerning the subdivision of land into 10 or more lots, tracts or parcels.

(2) When the original short subdivision contains nine or fewer lots, the above restrictions shall not apply to the creation of additional lots, not exceeding a total of nine. In that case, a new application must be filed and processed. After five years, further division may be permitted when otherwise consistent with the regulations of the city.

(3) Where there have been no dedications to the public and no sales of any lots in a short subdivision, nothing contained in this section shall prohibit a subdivider from completely withdrawing his entire short subdivision and thereafter presenting a new application. (Ord. 1986, 1994).

Chapter 20.24

LAND DIVISION REQUIREMENTS

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20.24.300 Divisions of land adjacent to small farms overlay zone.

20.24.010 Standards generally.

The following standards set forth in this chapter are to be used for division and redivisions of the land. (Ord. 1986, 1994).

20.24.020 Provisions for approval.

No division or redivision of land shall be approved unless appropriate provisions are made for, but not limited to, the public health, safety and general welfare, relating to open space, drainage ways, streets, alleys, other public ways, water supplies, sanitary

wastes, parks, school facilities and other standards as may be required by this title. (Ord. 1986, 1994).

20.24.030 Public use reservations.

(1) Reservation or Dedication. If the city concludes in the review of the subdivision or short subdivisions that the dedication or reservation of areas or sites for school facilities, park land, and playgrounds are reasonably necessary and are a direct result of the proposal and are consistent with the capital facilities element of the comprehensive plan, the city may require that such reservation or dedication be provided.

(2) Street Right-of-way Realignment or Widening.

(a) If the city concludes that the street right-of-way adjacent to a proposed division of land is inadequate for widening and realignment of the existing street, then the city may require a dedication of necessary right-of-way and improvement of that right-of-way.

(b) The city may allow up to 10 percent deviation in minimum lot size in short subdivisions only if the requirement of a dedication of right-of-way on an existing publicly improved street reduces a proposal below the minimum zoning code requirements.

(3) Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed subdivision or short subdivision as authorized in Chapter 82.02 RCW and Chapter 18.24 MMC. (Ord. 1986, 1994).

20.24.040 Design with environment required.

Information generated through the environmental review process will be used in designing the subdivision and short subdivisions in such a way as to mitigate potential adverse environmental impacts. (Ord. 1986, 1994).

20.24.050 Divisions of land with existing structures.

(1) When divisions or redivisions of land are submitted proposing the creation of new lots with existing structures, the existing structures shall comply with all zoning code requirements including, but not limited to, such things as setback requirements, parking requirements and height standards; provided, however, if the structures are legal nonconforming buildings, nothing shall prohibit the division of such land, so long as the division does not increase or intensify the nonconforming nature of the structure.

(2) Exception. If the existing structure cannot meet setback requirements and the structure(s) is a legal nonconforming structure, the applicant may then apply for a variance under MMC 20.32.010. (Ord. 1986, 1994).

20.24.060 Building design with natural slope.

The design and development of subdivisions shall attempt to preserve the topography of the site by selection and location of buildings which fit the natural slope of the land. Proposals to alter geologic hazard areas will be reviewed in accordance with Chapter 18.28 MMC, Sensitive Areas Management. (Ord. 1986, 1994).

20.24.070 Landscaping requirements.

Landscaping shall be in conformance with Chapter 19.16 MMC, Development Standards – Landscaping; provided, that for all new divisions of land, the applicant shall provide a landscape/reforestation plan that will include, but not be limited to, the following:

(1) Street trees spaced 40 feet on center. Street trees shall be a minimum of one and one-half inches in caliper and six to eight feet high at the time of planting. Tree species should be selected from the city's recommended street tree listing in the administrative landscape guidelines. Placement of street trees and treatment of the planting strip shall be subject to the street tree standards set forth in the Engineering Design and Development Standards, Section 3-504, Street Trees and Landscaping, and Standard Plan 3-504-001.

(2) Yard trees at a rate of two per lot. Yard trees shall include at least one evergreen tree which is native to the Northwest region. Yard trees shall be a minimum of one and one-quarter inches in caliper and six to eight feet high for deciduous, and six feet high for evergreens. Lots that include retained trees will not be required to provide yard trees.

(3) Where it is not feasible and/or desirable to plant the required lot trees, the applicant shall pay into the city tree fund an amount of money approximating the current market value of the trees, as well as labor costs for installation of said trees, that would otherwise be required. The city shall use the city tree fund for the purpose of acquiring, maintaining, and preserving wooded areas, and for planting and maintaining trees within the city.

(4) Significant trees, which include evergreen trees eight inches in diameter or greater and/or deciduous trees 12 inches in diameter or greater measured four and one-half feet above grade, shall be retained as follows:

(a) Perimeter landscaped areas that do not constitute a safety hazard shall be retained.

(b) At the discretion of the community development director, the applicant shall be required to hire a certified arborist to evaluate trees proposed for retention, including those located within NGPA tracts (specifically along the fringes) or other areas as identified. The arborist shall make a written recommendation to the community development department with regards to the treatment of the treed area. In the event of an immediate hazard, this requirement shall be waived.

(c) To provide the best protection for significant trees during the construction stage, the applicant shall install a temporary, five-foot high, orange clearing limits construction fence in a line generally corresponding to the drip line of any significant tree(s) to be retained. All such fencing shall be installed and inspected by the community development department prior to commencement of site work.

(d) At the discretion and approval of the community development director, where it is not feasible and/or desirable to retain the significant trees, the applicant may propose a planting plan on an alternative site or area, or payment into the city tree fund, that provides effective replacement of the functions and/or value lost through removal of the significant trees. (Ord. 2527 § 2, 2004; Ord. 2420 § 1, 2002; Ord. 1986, 1994).

20.24.075 Fence requirements.*

Prior to preliminary plat or short plat approval, it shall be determined whether a six-foot high, sight-obscuring fence shall be required along the affected perimeter of new formal single-family subdivisions or short subdivisions. A fence shall be required when one or more of the following criteria have been met (unless waived by adjacent property owner):

(1) If it is determined during grading plan review that the existing grade will be increased by a two-foot or greater vertical grade change and the grade increase causes the newly created lots to be at a higher elevation than the abutting property. The grade change shall be measured from the affected property line to the foundation wall of the newly constructed dwelling. In the case of formal subdivisions, the fencing issue shall be determined by the hearing examiner at the public hearing for the preliminary plat. The planning director shall be responsible for determining the fencing requirements for short subdivisions. The planning director's decision may be appealed to the hearing examiner, in accordance with MMC Title 15.

(2) If a newly created lot contains a front yard that directly abuts the rear yard of an adjacent property, and the existing lot contains a dwelling unit that is located within 20 feet of the newly created lot.

(3) If a newly constructed plat road (public or private) directly abuts either the side or rear yard of a residentially developed property, and the existing dwelling unit is located within 20 feet of the newly constructed road.

All required fencing shall be constructed prior to final plat and/or short plat approval. Where existing trees and associated vegetation or existing fencing serve the same or similar function on either the subject property or the abutting property, they shall have priority over and may be substituted for the required fencing, provided the following conditions are met:

(a) Supplemental landscaping is provided within or adjacent to these areas, as necessary, to accomplish the specific intent of this section.

All required screening shall be reviewed to ensure that access and connectivity between single-family developments are not being precluded as a result of these requirements. (Ord. 2434 § 1, 2002).

*Code reviser's note: Ordinance 2434 adds these provisions as Section 19.14.095. The section has been renumbered at the direction of the city to prevent duplication of numbering.

20.24.080 Floodplain requirements.

Land identified in the Marysville Flood Insurance Study dated February 15, 1984 as may from time to time be amended, with accompanying flood insurance maps as may from time to time be amended, shall not be subdivided unless the requirements of floodplain regulations are met. (Ord. 1986, 1994).

20.24.090 Street improvements.

(1) Street Standards. All streets shall be built to current city standards and meet minimum requirements as defined in the city of Marysville engineering design and development standards. The minimum requirement for each street classification shall be based on the maximum potential number of dwelling units served by the logical extension of common streets to serve other land.

(2) Whenever a division or redivision of land is on an existing public street such frontage shall be improved to current city standards.

(3) Local streets shall be laid out to discourage use by through traffic.

(4) The use of curvilinear streets, cul-de-sacs, and short loops shall be encouraged where such use will result in a more desirable layout.

(5) Proposed streets shall be extended to the boundary lines of the tract to be subdivided and short subdivided unless prevented by topography or other physical conditions, and in the opinion of the city engineer such extension is not necessary or desirable for the coordination of the layout of the subdivision or short subdivision with the existing road network, master street plan for the city, or the most advantageous future development of adjacent tracts.

(6) Right-of-way width in excess of the city standards may be required due to topography or other special circumstances.

(7) Access Easement Exception. The city may, at the request of the applicant in a short subdivision, only allow access to lots by easement when in the opinion of the city engineer:

(a) The improvement of a public street is not necessary to facilitate adequate supply of water, sewer and utilities;

(b) The improvement of a public street is not necessary to provide on-street parking;

(c) The improvement of a public street is not necessary to provide access to potential additional lots or future developable area;

(d) The improvement of a public street is not necessary to protect the public health, safety and welfare of the residence and general public.

(8) The computations for complying with the zoning code minimum lot size shall not include the access easement area.

(9) For any easement with public utilities, the city engineer shall determine easement width. (Ord. 2292 § 12, 1999).

20.24.100 Pedestrian improvements.

(1) Pedestrian Access. In order to facilitate pedestrian access from the streets to schools, parks, playgrounds or other nearby streets, the city may require perpetual unobstructed easements. Easements shall be noted on the face of the final plat.

(2) When a proposed division or redivision of land is on an established bus route, the applicant may be required to provide a bus shelter. The city engineer shall make this decision as it relates to the potential needs of the development. (Ord. 1986, 1994).

20.24.110 Drainage improvements.

(1) Drainage improvements shall be required as specified in MMC Title 14.

(2) Drainage Easements. When a subdivision or short subdivision is traversed by a watercourse, drainageway, channel or stream, the applicant shall provide a drainage easement or drainage right-of-way conforming substantially to the lines of the watercourse or drainageway. The easement or drainage right-of-way shall be maintained in its natural state with proper setback and landscaping as approved by the city. (Ord. 1986, 1994).

20.24.120 Sewer improvements.

All sewer improvements will be per city standards. (Ord. 1986, 1994).

20.24.130 Water improvements.

All water improvements will be per city standards. (Ord. 1986, 1994).

20.24.140 Fire hydrant improvement.

(1) Fire hydrants shall be installed per city's fire code.

(2) Fire hydrants must be approved and operating prior to framing of buildings. (Ord. 1986, 1994).

20.24.150 Clearing and grading.

(1) Before any site modification where existing natural features would be disturbed or removed, a grading plan must be submitted to the city and approved by the city showing the extent of the proposed modification.

(2) Debris, waste, trees, timber, junk, rubbish or other materials of any kind shall not be buried in any land or deposited in any surface water.

(3) All erosion control plans must be in compliance with city standards and MMC Title 14.

(4) In critical drainage areas no clearing of lots shall be allowed until building permits and/or a grading permit has been issued. (Ord. 1986, 1994).

20.24.160 Lot requirements.

(1) Lot arrangement shall be related to the natural features of the site and provide a suitable building site and driveway access from existing or proposed streets.

(2) Double-frontage lots shall be avoided whenever possible.

(3) Lots shall not, in general, access off of arterials. Where driveway access from a street may be necessary for several adjoining lots, the city may require that such lots be served by combined access points and driveways designed or arranged so as to avoid requiring vehicles to back into traffic.

(4) Residential lots must have a front yard setback orientation toward the public street or easement access.

(5) Interior lot lines should be composed of straight lines.

(6) Residential lots shall maintain the minimum setback requirements as specified by the city's zoning ordinance, unless shown otherwise on the final plat or short plat, as a building site. In no case shall the city staff or the hearing examiner grant a deviation from the setback requirement on an exterior lot line on abutting property under separate ownership without following the procedure of MMC 20.32.010.

(7) Residential lots shall maintain a minimum lot width as required by the city's zoning ordinance.

(8) Panhandle-shaped lots shall only be permitted in a residential subdivision or short subdivision if the following are met:

(a) The minimum width of the minor access portion shall be 20 feet;

(b) The computations for complying with the zoning code minimum lot size shall not include the minor portion of a panhandle-shaped lot;

(c) No panhandle-shaped lot shall be permitted in short subdivisions where the ownership is common with a contiguous property;

(d) Side-by-side panhandles in subdivisions are not permitted;

(e) No panhandle-shaped lot will be permitted if there is a potential for additional development, unless adequate area is left for the future development potential; and

(f) All panhandle access drives shall comply with easement access standards, including type of units allowed and improvements required. (Ord. 2527 § 3, 2004; Ord. 1986, 1994).

20.24.170 Utilities improvements.

All utility facilities shall be per city standards. (Ord. 1986, 1994).

20.24.180 Easements.

Permanent easements shall be provided for utilities and other public services identified at the time of preliminary plat approval. (Ord. 1986, 1994).

20.24.190 Public uses, park, playground and recreation areas.

(1) Each division or redivision of land shall be required to reserve for passive or active recreation, a designated area within the subdivision or short subdivision based on a minimum of five acres per 1,000 people as deemed reasonably necessary as a direct result of the proposed subdivision or short subdivision.

(2) Such land reserved for recreation purposes shall be a suitable location for proposed recreation uses.

(3) Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of dedication of land to mitigate a direct impact that has been identified as a consequence of a proposed subdivision or short subdivision as authorized in Chapter 82.02 RCW and Chapter 18.24 MMC. (Ord. 1986, 1994).

20.24.200 Underground wiring.

It is the intent of this provision to eliminate insofar as possible the installation of overhead wires and of wire carrying poles within residential subdivisions and short subdivisions being henceforth developed under this title.

(1) All subdivisions or short subdivisions shall have all necessary power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or lines placed in underground location either by direct burial or by means of conduit or ducts and with the exception of the city fire alarm system, providing service to each lot or potential building site in the plat.

(2) All such underground installations or systems shall be approved by the appropriate utility company and shall adhere to all governing applicable regulations including but not limited to the city and state applicable regulations and specific requirements of the appropriate utility.

(3) If the appropriate utility company will not approve an underground installation or system because it cannot reasonably be installed according to accepted engineering practices, applicant may request a waiver of the requirement of underground installations or systems to the city engineer. If the city engineer concurs that under accepted engineering practices underground installations or systems cannot reasonably be installed he shall grant the waiver. If the city engineer does not concur, he shall make recommendations relating to the undergrounding of electrical service to the applicant for transmittal to the appropriate utility company.

(4) All utility easements within a proposed subdivision and short subdivision shall be approved by the appropriate utility company before final acceptance of the plat and shall be shown in their exact location on the final drawing of said subdivision or short subdivision.

(5) Nothing in this section or any other section of this title in relation to underground wiring shall apply to power lines carrying a voltage of 15 KV or

more, nor shall it be construed to prohibit the placement of pad mounted transformers, terminal pedestals or other electrical and communications devices above ground, as determined by the appropriate utility involved. (Ord. 2161 § 1, 1997; Ord. 1986, 1994).

20.24.210 Improvements – Smooth transition required.

All improvements required by this title shall be extended as necessary to provide a smooth transition with existing improvements, both laterally across the street and longitudinally up and down the street, for utilities, vehicular and pedestrian traffic. (Ord. 1986, 1994).

20.24.220 Improvements – Utility improvement plans.

All street and utility improvement plans shall be prepared by a state of Washington licensed civil engineer to meet city standards. All plans shall be prepared on reproducible mylar material and presented to the city for approval. (Ord. 1986, 1994).

20.24.230 Improvements – Acceptance.

The city engineer is authorized to accept all improvements and/or right-of-way dedication required in this title on behalf of the city. (Ord. 1986, 1994).

20.24.240 Performance guarantee requirements.

(1) Site improvements shall be completed prior to approval of the final plat or short plat, or at the discretion of the city engineer, or his designee, a performance bond may be furnished guaranteeing such completion within one year from the date of acceptance of the plat. The performance bond shall be drawn in favor of the city in the amount specified by the city engineer, or his designee, or in lieu of a bond an equal sum placed in escrow. When all site improvements have been completed and all monuments and property corners have been properly placed, according to the required city standards, and have been approved by the city engineer, or his designee, the road bond or balance of money held in escrow shall be released to the subdivider.

(2) Guarantee funds shall not be released by the city unless approval has been received from all applicable departments that are responsible for acceptance and/or maintenance of such improvements. (Ord. 1986, 1994).

20.24.250 Site improvements designated.

Site improvements shall include, but are not limited to: grading of entire width of street rights-of-way, asphalt/concrete surfacing of roadways (as per city standards contained in the street code), curbs, gutters and sidewalks constructed according to the street code and construction of drainage facilities included in the preliminary plat. The developer shall request inspection of the improvements by the city engineer or his designee at the following times:

(1) Erosion control measures are installed;

(2) Rough grading is complete and prior to placing pit run;

(3) Storm sewer completion;

(4) Roadway including curb and gutter completion;

(5) When all improvements, including monuments, have been placed.

All improvements which do not meet city standards shall be immediately replaced or repaired prior to proceeding. The city engineer, or his designee, will inform the developer in writing of any improvements which are not acceptable. (Ord. 1986, 1994).

20.24.260 Warranty requirements for acceptance of final improvements.

(1) After satisfactory completion of roadway improvements, including streets, curbs, gutters and sidewalks, and storm water drainage improvements, and after satisfactory completion of on-site retention facilities, if any, the owner and/or developer shall provide to the city a two-year warranty at 10 percent of all costs incurred for the roads, right-of-way improvements and storm drainage system and shall warrant against defects in the design, materials and workmanship relating to such improvements and facilities, and costs of maintaining and repairing said improvements and facilities for said two-year period. The amount of the warranty shall be determined by the city engineer, or his designee, and may be increased to as much as 20 percent of all costs incurred for roads, right-of-way improvements and storm drainage system based on site characteristics/conditions. In lieu of a surety bond, the city may accept a cash bond, assignment of a bank account or irrevocable letter of credit.

(2) For the purpose of this title, final approval shall not be given until such time as all of the required improvements have been satisfactorily installed in accordance with the requirements of

preliminary approval and the approved road and storm plans, or have been bonded for as mentioned above. (Ord. 1986, 1994).

20.24.270 Survey requirement.

(1) A survey for division and redivision must be conducted by or under the supervision of a licensed land surveyor registered in the state of Washington. The surveyor shall certify on the plat or short plat that it is a true and correct representation of the lands actually surveyed and the survey was done in accordance with city and state law.

(2) In all subdivisions and short subdivisions, lot corner monuments must be set before final approval can be granted.

(3) In all subdivisions and short subdivisions, perimeter monuments must be set before final approval can be granted.

(4) In all subdivisions and short subdivisions, control monuments must be set before final acceptance of public improvements. Performance guarantees must include the installation of all control monuments. Control monuments must be installed per city design and construction standards.

(5) In all subdivisions and short subdivisions where final approval is to be granted by the acceptance of a performance guarantee, lot corner and perimeter monuments must be set. The performance guarantee must include the resetting of any monument that has been lost during construction of public improvements. (Ord. 1986, 1994).

20.24.280 Dedication – Statutory warrant deed.

Any dedication, donation or grant as shown on a short plat or plat map shall constitute a statutory warranty deed to said grantee for the use intended. (Ord. 1986, 1994).

20.24.290 Model homes.

Repealed by Ord. 2527. (Ord. 1986, 1994).

20.24.300 Divisions of land adjacent to small farms overlay zone.

For all proposed divisions or redivisions of land which are located adjacent to a small farm that has been in existence for at least two years preceding the application for new development, a six-foot-high, sight-obscuring chain link fence shall be required along the property line, unless the developer demonstrates by clear and convincing evidence that a different barrier would be as adequate to protect the small farm. The following alternative methods of sight-obscuring screening may be utilized, but shall not be limited to (the applicant shall demonstrate to the planning department that the screening method proposed provides the greatest amount of protection relative to the type of adjacent agricultural use):

(1) Protected sensitive areas and their related buffers may be utilized, if directly adjacent to the small farms overlay zone; or

(2) An existing vegetative buffer which provides adequate screening and separation between the small farm use and the proposed subdivision. (Ord. 2115 § 2, 1997).

Chapter 20.28

TAX SEGREGATED LOTS

Sections:
20.28.010 Subdivision requirements.

20.28.010 Subdivision requirements.

(1) Tax lots created through the tax segregation process, Chapter 84.56 RCW, are not recognized as lots for the purpose of the city subdivision ordinance and zoning code unless they have been formally divided pursuant to the requirements of Chapter 58.17 RCW and applicable city ordinance. If the lots have not been formally divided pursuant to the requirements of Chapter 58.17 RCW and applicable city ordinances, then they must be subdivided or short subdivided in accordance with the requirements of this title; provided, however, lots which have been created solely through the tax segregation process shall not be required to be divided in accordance with the requirements of Chapter 58.17 RCW and this title if they meet the following requirements:

(a) The lots were created by the tax segregation process defined in Chapter 84.56 RCW prior to August 10, 1969; and the lots meet all zoning regulations in effect at the time they were created;

(b) In the event the subject property has been annexed into the city, the property must meet county zoning regulations as of the time of annexation.

(2) If a tax segregated lot was created prior to August 10, 1969, and does not meet the zoning requirements set forth in subsection (1)(a) of this section, an application for a variance as set forth in MMC 20.32.010 may be made to the hearing examiner. When considering the variance, the hearing examiner may consider as an "exceptional circumstance or condition" for purposes of MMC 20.32.010(5)(a), when appropriate for the subject property, whether building permit(s) were issued by the city and whether the information provided by the applicant when applying for said building permit(s) was complete and accurate. In granting a modification/variance the hearing examiner may impose as a condition of approval, any conditions which the hearing examiner determines to be necessary for the health, safety and welfare of the general public. (Ord. 1986, 1994).

Chapter 20.32

MODIFICATIONS AND VARIANCES

Sections:
20.32.010 Modifications and variances.

20.32.010 Modifications and variances.

(1) Applications for variances are limited to the following sections of this title: MMC 20.24.050, 20.24.090(6), 20.24.090(13)(b), 20.24.160 and 20.28.010. Variances are not permitted from other sections of this title.

(2) For subdivisions and short subdivisions, a request for a variance of more than 10 percent shall be considered by the hearing examiner. The application shall be submitted with the subdivision or short subdivision application.

(3) For subdivisions and short subdivisions, a request for a variance of less than or equal to 10 percent shall be considered by the planning director. The application shall be submitted with the subdivision or short subdivision application.

(4) All variances to new lots created under this subdivision code relating to MMC 20.24.050 and 20.24.160 shall be heard by the hearing examiner or planning director per subsections (2) and (3) of this section. The hearing examiner shall hear requests for variances made pursuant to MMC 20.24.090(6), 20.24.090(13)(b) and 20.28.010.

(5) In order for the planning director or hearing examiner to grant a variance, he or she must find that all of the following conditions have been met:

(a) There are exceptional circumstances or conditions such as: location of existing structures, lot configuration, topographic or unique physical features that apply to the subject property which prohibit the applicant from meeting the standards of this title;

(b) The authorization of the variance will not be detrimental to the public welfare or injurious to the property in the vicinity or zone in which the property is located; and

(c) A hardship would be incurred by the applicant if required to comply with the strict application of the section or sections identified in subsection (1) of this section.

(6) The filing of an application with the city requesting a variance shall stay the running of the time period for preliminary subdivision and short subdivisions approval as is set forth in Chapters 20.12 and 20.20 MMC. (Ord. 1986, 1994).

Chapter 20.36

APPEALS*

Sections:

20.36.010 Preliminary subdivision – Appeals of hearing examiner decisions.
20.36.020 Short subdivisions – Appeals to hearing examiner.
20.36.030 Time period stay – Effect of appeal.

*Prior legislation: Ordinance No. 1986.

20.36.010 Preliminary subdivision – Appeals of hearing examiner decisions.

All decisions rendered by the hearing examiner on preliminary subdivisions shall be appealed pursuant to the provisions of Chapter 15.11 MMC. (Ord. 2202 § 7, 1998).

20.36.020 Short subdivisions – Appeals to hearing examiner.

(1) All appeals of decisions relating to short subdivisions shall be made to the hearing examiner. Such appeals must be made in writing and filed with the office of the hearing examiner within 14 calendar days from the date on which the preliminary decision was rendered.

(2) The written appeal shall include a detailed explanation stating the reason for the appeal. The decision of the hearing examiner shall be final with a right of appeal to superior court as provided in MMC 15.11.030.

(3) Standing to appeal to the hearing examiner is limited to the following:

(a) The applicant or owner of the property on which the short subdivision is proposed;

(b) Any aggrieved person who will thereby suffer a direct and substantial impact from the proposed short subdivision; and

(c) RCW 58.17.180 grants standing to property owners within 300 feet of the subject property. (Ord. 2202 § 7, 1998).

20.36.030 Time period stay – Effect of appeal.

The filing of an appeal shall stay the running of the time periods for subdivision and short subdivision approval as are set forth in this article. (Ord. 2202 § 7, 1998).

Chapter 20.40

ENFORCEMENT AND PENALTIES

Sections:

20.40.010 Delegation of responsibilities.
20.40.020 Compliance – Prior provisions – Transition.
20.40.030 Effect of noncompliance.
20.40.040 Filing unapproved subdivisions or short subdivisions.
20.40.050 Violation – Injunctive action.
20.40.060 Violation – Exception.
20.40.070 Provisions nonexclusive.
20.40.080 Rules and regulations.
20.40.090 Severability.
20.40.100 Savings.

20.40.010 Delegation of responsibilities.

Whenever the terms of this title specifically authorize the planning director or the city engineer to perform specific acts, the planning director and city engineer are authorized to delegate those specific responsibilities to members of their respective staffs. (Ord. 1986, 1994).

20.40.020 Compliance – Prior provisions – Transition.

All applications for preliminary subdivisions and short subdivisions which are properly filed with the city on or after the fifteenth day following the validation date of the ordinance codified in this title shall proceed in full compliance with the requirements of this article as it presently is or is hereafter amended and state law. All other subdivisions and short subdivisions which received preliminary approval prior to the fifteenth day following the validation date of the ordinance codified in this title shall comply with the requirements of the prior subdivision code and state law. (Ord. 1986, 1994).

20.40.030 Effect of noncompliance.

No building permit or other development permit including approvals for preliminary subdivisions and short subdivisions shall be issued for any lot or parcel of land divided in violation of Chapter 58.17 RCW or this title. All purchases or transfers of property shall comply with the provisions of Chapter 58.17 RCW and this title, and each purchaser, transferee or other legal entity may recover his damages from any person, firm, corporation or agent selling or transferring land in violation of Chapter 58.17 RCW or this title, including any amount reasonably spent as a result of an inability to obtain any development permit and spent to conform to the requirements of Chapter 58.17 RCW and this title as well as the cost of investigation, suit and reasonable attorney's fees. A purchaser, transferee or other legal entity may, as an alternative to conforming the property to these requirements, rescind the sale or transfer and recover the cost of investigation, suit and reasonable attorney's fees. (Ord. 1986, 1994).

20.40.040 Filing unapproved subdivisions or short subdivisions.

The county auditor shall refuse to accept the filing of any division or redivision of land that has not been approved by the city in accordance with the provision of this title. Should any division or redivision of land be filed without such certification, as set forth in Chapters 20.16 and 20.20 MMC, the city attorney may apply for a writ of mandamus on behalf of the city directing the auditor to remove the unapproved subdivision from the auditor's files. (Ord. 1986, 1994).

20.40.050 Violation – Injunctive action.

Any violation of the provisions of this title constitutes a public nuisance per se which the city can abate by action in Snohomish County superior court. All costs of such action, including attorney fees, shall be taxed against the violator. (Ord. 1986, 1994).

20.40.060 Violation – Exception.

If performance of an offer or agreement to sell, lease or otherwise transfer a lot, tract or parcel of land following preliminary plat or preliminary short plat approval is expressly conditioned on the recording of the final plat or short plat containing the lot, tract or parcel under this title, the offer or agreement is not a violation of any provisions of this title. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to sellers shall be permitted until the final plat or short plat is recorded. (Ord. 1986, 1994).

20.40.070 Provisions nonexclusive.

Penalty and enforcement provisions provided in this title are not to be exclusive, and the city may pursue any remedy or relief it deems appropriate. (Ord. 1986, 1994).

20.40.080 Rules and regulations.

The city's planning director is authorized to promulgate rules and regulations which are consistent with the terms of this title. (Ord. 1986, 1994).

20.40.090 Severability.

If any provision of this title shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this title would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this title shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 1986, 1994).

20.40.100 Savings.

Nothing contained in this title shall be construed as abating any action now pending under or by virtue of any ordinance of the city herein repealed, or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of the ordinance codified in this title. (Ord. 1986, 1994).

Article II. Binding Site Plan

Chapter 20.44

GENERAL PROVISIONS

Sections:

20.44.010 Title for citation.
20.44.020 Authority.
20.44.030 Purpose.
20.44.040 Jurisdiction.
20.44.050 Applicability.
20.44.060 Administration.
20.44.070 Definitions.

20.44.010 Title for citation.

This article shall be known as the binding site plan ordinance of the city. The requirements set forth in this article are applicable to all divisions of land zoned business, commercial and industrial within the city. (Ord. 1986, 1994).

20.44.020 Authority.

These regulations are authorized by Chapter 58.17 RCW and all other applicable state laws and city ordinances. (Ord. 1986, 1994).

20.44.030 Purpose.

It is the intent and purpose of this article to establish an alternative process to subdividing and short subdividing of land as provided in the city's subdivision ordinance. The binding site plan review process is approval of a division of land with an overall site plan. The binding site plan shall promote the harmonious development of such properties in a manner that will have the most beneficial relationship between the development of the land and such things as the circulation of traffic, the effective use of utilities, adequate landscaping, parking, loading, refuse disposal, outdoor storage and pedestrian flow. (Ord. 1986, 1994).

20.44.040 Jurisdiction.

These regulations shall apply to all properties exempt from the city's subdivision code that is being divided through the binding site plan process in business, commercial and industrial zones within the incorporated area of the city. (Ord. 1986, 1994).

20.44.050 Applicability.

Any person, firm, corporation or other entity which does not divide their property per the city's subdivision ordinance and seeks to divide busi-

ness, commercial or industrial zoned land for the purpose of sale, lease or transfer of ownership is required to apply for and complete a binding site plan as is required by this title. (Ord. 1986, 1994).

20.44.060 Administration.

The planning director and the city engineer shall have the duty and responsibility of administering the provisions of this title. (Ord. 1986, 1994).

20.44.070 Definitions.

(1) "Applicant" means any person or legal entity proposing a development plan or a binding site plan.

(2) "Binding site plan" means a drawing to scale which:

(a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces;

(b) Any other matters required to be identified by the city, and containing inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as established by the city;

(c) Contains provisions making any development be in conformity with the site plan; and

(d) Contains provisions in which an applicant can offer for sale, lease, transfer of ownership of lots, parcels or tracts.

(3) "City," for purposes of this article, is the city of Marysville.

(4) "City standards" means the engineering design and development standards as published by the department of public works.

(5) "Zoning code" means city of Marysville zoning ordinance, MMC Title 19. (Ord. 1986, 1994).

Chapter 20.48

PRELIMINARY REVIEW PROCESS

Sections:

20.48.010 Preapplication requirements.
20.48.020 Application submittal.
20.48.030 Action by city departments.
20.48.040 Preliminary approval – Effect.
20.48.050 Time limitation for action.

20.48.010 Preapplication requirements.

(1) Meeting. Prior to submittal of a binding site plan application for consideration by the city, the applicant may request a preapplication meeting with the city staff on the express condition, that the city, its officers, employees shall be held harmless and released from any claims from damages arising from discussions at said preapplication meeting. The city shall provide written comments to the applicant, and the applicant may discuss the general goals and objectives of the proposal, the overall design possibilities, the general character of the site, environmental constraints and standards of development. The focus of the meeting shall be general in nature and none of the discussions shall be interpreted as a commitment by the city or applicant. No statements or assurances made by city representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of all pertinent city, state and federal codes, laws, regulations and land use plans.

(2) Preliminary Drawings.

(a) Binding Site Plan. The applicant shall provide an accurate preliminary drawing to scale showing lot layout, dimensions, circulation, building location, parking, landscaping and utilities.

(b) Legal Description. The applicant shall provide a legal description of the property.

(c) Vicinity Map. The applicant shall provide a vicinity sketch of the subject area.

(3) Scheduling of Meeting. All information set forth in subsection (2) of this section must be provided to the city before a preapplication meeting may be scheduled. (Ord. 1986, 1994).

20.48.020 Application submittal.

(1) Fees. The applicant shall pay the required fees as set forth in the city's fee schedule or other applicable resolutions or ordinances when submitting the binding site plan application.

(2) Application Documents. An applicant for a binding site plan shall submit an application, form, legal description of the property, a vicinity map,

declaration of ownership, a listing of the names and addresses of the adjacent property owners, an environmental checklist and a proposed binding site plan.

(3) Preliminary Binding Site Plan. The proposed binding site plan shall be submitted which contains the following information:

(a) The name or title of the proposed binding site plan;

(b) The date, north arrow and appropriate engineering scale as approved by the planning department (e.g., 1" = 20', 1" = 30', 1" = 40', 1" = 50', 1" = 60');

(c) Boundary lines of tract, lot lines, lot number, block number;

(d) Location and name of existing and proposed streets and right-of-way;

(e) Drainage channels, water courses, marshes, lakes and ponds;

(f) All significant wooded areas as characterized by evergreen trees eight inches in diameter or greater and/or deciduous trees 12 inches in diameter or greater, measured four and one-half feet above grade;

(g) Existing structures and setbacks;

(h) The location of existing driveways;

(i) All easements and uses;

(j) Existing and proposed utilities services;

(k) Fire hydrant location and distance;

(l) Five-foot contour lines;

(m) Preliminary street profile of all streets within the development to be dedicated as public roads together with a preliminary grading and storm drainage plan;

(n) A typical cross-section of the proposed street improvements;

(o) Any regulated sensitive areas such as wetlands, steep slopes or wildlife habitat.

(4) Additional Application Requirements. If the city finds the presence of any of the following site conditions, then the city may require the applicant to provide additional information such as detailed studies and site plans.

(a) Site has existing slopes exceeding 15 percent for more than 50 (running) feet;

(b) Site has permanent drainage course or wetlands;

(c) Conditions exist on the site or in the area adjacent to the site which may contribute to or cause erosion, drainage problems, surface slippage or other geological hazards;

(d) Site has other unique physical features or sensitive features;

(e) The subdivision will result in 10 or more peak-hour vehicular trips onto public streets, or sight distance/safety concern. (Ord. 1986, 1994).

20.48.030 Action by city departments.

(1) Action by the Planning Department. If the binding site plan application is complete and the fee is paid, the planning department shall accept the application and conduct a city review.

(2) Action by Other City Departments. The planning department will circulate copies of the proposed binding site plan to relevant city departments and affected agencies. The department or agency shall review the preliminary subdivision and furnish the planning department with a report as to the effect the proposed binding site plan may have upon their area of responsibility and expertise. The reports submitted shall include recommendations as to the extent and types of improvements to be provided.

(3) Factors Considered by City Departments. The city shall review the proposed binding site plan to determine whether it meets the following criteria:

(a) Comprehensive Plan. Whether the proposed binding site plan and development of the parcel relates to all elements of the comprehensive plan;

(b) Zoning. Whether the proposed binding site plan meets the zoning regulations;

(c) Physical Setting. Whether the binding site plan properly takes into account the topography, drainage, vegetation, soils and any other relevant physical elements of the site;

(d) Public Services.

(i) Adequate water supply,

(ii) Adequate sewage disposal,

(iii) Appropriate storm drainage improvements,

(iv) Adequate fire hydrants,

(v) Appropriate access to all anticipated uses within the site plan,

(vi) Provisions for all appropriate deeds, dedications, and/or easements,

(vii) Examination of the existing streets and utilities and how the proposed binding site plan relates to them;

(e) Environmental Issues. Examination of the project through the SEPA process and a determination of whether the proposed binding site plan complies with the SEPA requirements.

(4) Notice Requirements.

(a) Notice to Adjacent Property Owners. The city shall send adjacent property owners, as defined by this title, notice that the binding site

application has been filed with the city. Notice is deemed sent once placed in the mail.

(b) Adjacent property owners shall have 14 calendar days from the date of mailing in which to submit written comments to the planning department concerning the proposed binding site plan and/or request a public hearing.

(c) The applicant shall post the property with a large sign when the application is deemed complete. This sign shall be supplied by the city, and organized, placed and built to the specifications of this title and applications instructions as defined by the city's planning department. The cost for said sign shall be born by the applicant. All large signs described herein are exempt from the city's zoning and sign codes. All signs required to be posted shall remain in place until the final decision has been reached on the preliminary subdivision. Following that decision, the applicant must remove the sign within 14 days. The signs shall be as follows:

(i) Sign size shall be four feet by eight feet;

(ii) All letters and numbers shall be Helvetica style; black letters and numbers with white background;

(iii) Required information on sign:

(A) Notice of Public Hearing (three-inch CAPS letters);

(B) Applicant and Application Number (1.5-inch letters and numbers);

(C) Address of property (1.5-inch letters and numbers);

(D) Proposal (1.5-inch letters and numbers);

(E) Location and time of public hearing (1.5-inch letters and numbers);

(F) To submit comments or to obtain additional information, "Contact City of Marysville Planning Department, 80 Columbia Avenue, Marysville, Washington, 98270-5158, 206-659-8470 (1.5-inch letters and numbers)";

(G) Sketch drawing of preliminary subdivision showing lots, adjacent street and alleys, north arrow and scale (three feet by three feet);

(iv) All large signs shall be located so that they can be read clearly from adjacent streets. The signs shall be at midpoint of the street frontage 10 feet from the front property line unless otherwise directed by the city. Top of signs must be between seven and nine feet above grade;

(v) Organization, construction and mounting of large signs shall be as defined in the city's application instructions.

(d) If in the opinion of the planning department, the large sign as described herein would not be highly visible, the applicant shall post three placards within the local neighborhood or place the large sign in a location approved by the city.

(e) SEPA notice requirements shall be combined with subsection (4)(c) of this section.

(5) Preliminary Decision.

(a) If at the end of the 14-day comment period no request for a public hearing has been received, the city planning director and city engineer shall determine whether the requirements set forth herein have been met and based thereon, shall approve, conditionally approve, disapprove or return to the applicant for further modification. This administrative decision shall be in writing and shall include findings and conclusions.

(b) If a request for a public hearing is received within the 14-day comment period, the binding site plan shall be subject to the public review process outlined in Chapter 20.12 MMC. (Ord. 1986, 1994).

20.48.040 Preliminary approval – Effect.

Preliminary approval of the binding site plan by the city shall constitute authorization for the applicant to take the necessary steps to meet the conditions imposed by the city before commencing the final binding site plan review process. (Ord. 1986, 1994).

20.48.050 Time limitation for action.

The applicant must complete all conditions of preliminary approval within three years following the date of preliminary approval, after which time the preliminary approval is void. An extension may be granted by the planning department for one year if the applicant has attempted in good faith to complete the requirements of preliminary approval within the original time period; provided, however, the applicant must file a written request with the planning department requesting the extension at least 30 days prior to the expiration of the original time period. If the binding site plan was approved through the public review process this extension request must be made to the city council. (Ord. 2527 § 5, 2004; Ord. 1986, 1994).

Chapter 20.52

FINAL REVIEW PROCESS

Sections:

20.52.010 Preliminary approval compliance.
20.52.020 Binding site plan – Requirements.
20.52.030 Binding site plan – Certifications required – Requirements.
20.52.040 Binding site plan – Title report.
20.52.050 Binding site plan – Survey required.
20.52.060 Approval procedure.
20.52.070 Recording requirements.
20.52.080 Development requirements.

20.52.010 Preliminary approval compliance.

Prior to the submittal of any binding site plan to the city for final approval, the applicant must demonstrate compliance with all of the conditions of the preliminary approval and prepare all of the necessary final documents. (Ord. 1986, 1994).

20.52.020 Binding site plan – Requirements.

The final binding site plan shall be drawn on mylar drafting film having dimensions of 18 inches by 24 inches and must include the following:

(1) The name of the binding site plan;

(2) Legal description of the entire parcel;

(3) The date, north arrow and appropriate engineering scale as approved by the planning department (e.g., 1" = 20', 1" = 30', 1" = 40', 1" = 50', 1" = 60');

(4) Boundary lines, right-of-way for streets, easements, and property lines of lots and other sites with accurate bearings, dimensions or angles and arcs, and of all curve data;

(5) Names and right-of-way widths of all streets within the parcel and immediately adjacent to the parcel. Street names shall be consistent with the names of existing adjacent streets;

(6) Number of each lot consecutively;

(7) Reference to covenants and special restrictions either to be filed separately or on the face of the binding site plan;

(8) Zoning setback lines, building sites when required by the city;

(9) Location, dimensions and purpose of any easements, noting if the easements are private or public;

(10) Location and description of monuments and all lot corners set and found;

(11) Existing structures, all setbacks and all encroachments;

(12) Primary control points, and datum elevations if applicable, approved by the public works

department. Descriptions and ties to all control points will be shown with dimensions, angles and bearings;

(13) A dedicatory statement acknowledging public and private dedications and grants;

(14) Parking areas, general circulation, landscaping area when required;

(15) Proposed use and location of buildings when required;

(16) Loading areas when required;

(17) Other restriction and requirements as deemed necessary by the city. (Ord. 1986, 1994).

20.52.030 Binding site plan – Certifications required – Requirements.

(1) A certificate giving a full and correct description of the lands divided as they appear on the binding site plan, including a statement that the division has been made with the free consent and in accordance with the desires of the owners. If the binding site plan is subject to a dedication, the certificate or a separate written instrument shall also contain the dedication of all streets and other areas to the public, and an individual or individuals, religious society or societies or to any corporation, public or private or other legal entity as shown on the binding site plan and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of the road. The certificate of instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the land divided and recorded as part of the final binding site plan.

(2) A certification by a licensed surveyor, licensed in the state of Washington, that the binding site plan survey is accurate and conforms to the provisions of these regulations and state law;

(3) Certification by planning director that the binding site plan conforms to all conditions of preliminary approval;

(4) Certification by city engineer that the binding site plan conforms to survey data, layout of streets, alleys and rights-of-way, design of bridges, sewage and water systems, and all other public improvements;

(5) A certificate of approval prepared for the signature of the mayor (applicable to binding site plans reviewed through the public review process);

(6) Certification by the county treasurer that the taxes on the described property are current;

(7) Recording certificate for the county auditor. (Ord. 1986, 1994).

20.52.040 Binding site plan – Title report.

All binding site plans shall be accompanied by a title company certification (current within 30 days from filing of the binding site plan) confirming that the title of the lands as described and shown on the binding site plan are in the name of the owner(s) signing the binding site plan. (Ord. 1986, 1994).

20.52.050 Binding site plan – Survey required.

A survey must be performed for every binding site plan by or under the supervision of a state of Washington licensed land surveyor. (Ord. 1986, 1994).

20.52.060 Approval procedure.

(1) Applicants for final binding site plan approval shall file all required documents meeting all the requirements of this title with the city planning department. The planning department shall review the final binding site plan and circulate it to other city departments to determine whether the requirements of this title and preliminary approval have been met.

(2) If the planning director and city engineer determine that the requirements are met, they shall approve the binding site plan.

(3) If either the planning director or the city engineer determine that the requirements have not been met, the final binding site plan shall be returned to the applicant for modification, correction or other action as may be required for approval.

(4) If the conditions have been met, the planning director and city engineer shall inscribe and execute their written approval on the face of the binding site plan.

(5) If the binding site plan was reviewed through the public review process, the binding site plan shall be subject to the final review process outlined in Chapter 20.16 MMC. (Ord. 1986, 1994).

20.52.070 Recording requirements.

When the city finds that the binding site plan proposed for final approval meets all the conditions of final approval, then the applicant shall record the original of said binding site plan with the Snohomish County auditor. The applicant will also furnish the city with one reproducible mylar copy of the recorded binding site plan, and the Snohomish County assessor shall be furnished one paper copy. (Ord. 1986, 1994).

20.52.080 Development requirements.

All development must be in conformance with the recorded binding site plan. (Ord. 1986, 1994).

Chapter 20.56

STANDARDS

Sections:

20.56.010 Approval.
20.56.020 Public use reservations.
20.56.030 Design with environment.
20.56.040 Development with existing structures.
20.56.050 Site-specific energy conservation.
20.56.060 Floodplain regulations.
20.56.070 Landscaping.
20.56.080 Parking.
20.56.090 Loading areas.
20.56.100 Outdoor storage.
20.56.110 Signs.
20.56.120 Lots.
20.56.130 Building setbacks.
20.56.140 Fire hydrants.
20.56.150 Access and circulation.
20.56.160 Street frontage.
20.56.170 Sewer improvements.
20.56.180 Water improvements.
20.56.190 Drainage improvements.
20.56.200 Clearing and grading.
20.56.210 Utilities improvements.
20.56.220 Easements.
20.56.230 Underground wiring.
20.56.240 Improvements – Smooth transition required.
20.56.250 Utility improvement plans.
20.56.260 Acceptance of improvements.
20.56.270 Performance guarantee requirements.
20.56.280 Site improvements designated.
20.56.290 Warranty requirements for acceptance of final improvements.
20.56.300 Survey required.
20.56.310 Dedication – Warranty deed.

20.56.010 Approval.

(1) Standards for Binding Site Plans. The standards set forth in this chapter are to be used for binding site plans.

(2) Provisions for Approval. No binding site plans shall be approved unless appropriate provisions are made for, but not limited to, the public health, safety, and general welfare. (Ord. 1986, 1994).

20.56.020 Public use reservations.

(1) Street Right-of-Way Realignment, Dedication or Widening. If the city concludes that the street right-of-way adjacent to a proposed binding site plan is inadequate for widening and realignment of the existing street is necessary as a direct result of the proposed development, then the city may require a dedication of necessary right-of-way and improvement of that right-of-way.

(2) Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of dedication of land or to mitigate a direct impact that has been identified as a consequence of a binding plan as authorized by Chapter 82.02 RCW. (Ord. 1986, 1994).

20.56.030 Design with environment.

Information generated through the environmental review process will be used in designing the development in such a way as to mitigate potential adverse environmental impacts. (Ord. 1986, 1994).

20.56.040 Development with existing structures.

In reviewing any project, all existing structures shall comply with the standard of this title and zoning code requirements. However, if the structures are nonconforming, the applicant shall bring the project into compliance with the standards set forth in this chapter to the maximum extent possible. This title does not allow the applicant to increase or intensify the nonconforming nature of the structure. (Ord. 1986, 1994).

20.56.050 Site-specific energy conservation.

The use of the site-specific energy schemes shall be encouraged that best offer opportunities for maximum use of southern exposures and the use of natural climate conditions. (Ord. 1986, 1994).

20.56.060 Floodplain regulations.

Land identified in the Marysville Flood Insurance Study dated February 15, 1984 as amended from time to time, with accompanying flood insurance maps, as amended from time to time, shall not be developed unless the requirements of floodplain regulations are met. (Ordinance No. 1339 as amended, codified in Chapter 16.32 MMC). (Ord. 1986, 1994).

20.56.070 Landscaping.

Landscaping shall be required on all projects per zoning code requirements and city standards. (Ord. 1986, 1994).

20.56.080 Parking.

The number of parking stalls shall be provided per zoning code requirements. All parking lots shall be paved and designed per city standards. (Ord. 1986, 1994).

20.56.090 Loading areas.

Loading areas shall be provided per zoning code requirements. (Ord. 1986, 1994).

20.56.100 Outdoor storage.

Outdoor storage areas that contain material not for sale, rent or lease to the public shall be fully screened from view from all streets and residential zoning boundary. (Ord. 1986, 1994).

20.56.110 Signs.

All signs shall be per zoning code requirements and city sign ordinance in Chapter 16.16 MMC. All signing shall be approved by the city and integrated into the building design and the overall site plan. (Ord. 1986, 1994).

20.56.120 Lots.

(1) Lot arrangement shall be related to the natural features of the site and provide a suitable building site.

(2) Lots in general in a binding site plan do not have to meet lot requirements of the zoning code, as long as the city has approved the overall binding site plan. (Ord. 1986, 1994).

20.56.130 Building setbacks.

All setbacks for structures shall be the same as the zoning code; provided, however, when the city has approved a binding site plan, interior lots may be approved on a case by case basis. (Ord. 1986, 1994).

20.56.140 Fire hydrants.

(1) Fire hydrants shall be installed per city fire code.

(2) Fire hydrants must be approved and operating prior to wood framing of buildings. (Ord. 1986, 1994).

20.56.150 Access and circulation.

Ingress, egress and general circulation shall be approved by the city engineer. (Ord. 1986, 1994).

20.56.160 Street frontage.

Whenever a project is proposed on an existing public street, frontage shall be improved to current city standards. (Ord. 1986, 1994).

20.56.170 Sewer improvements.

All sewer improvements shall be per city standards. (Ord. 1986, 1994).

20.56.180 Water improvements.

All water improvements shall be per city standards. (Ord. 1986, 1994).

20.56.190 Drainage improvements.

Drainage improvements shall be required as specified in MMC Title 14. (Ord. 1986, 1994).

20.56.200 Clearing and grading.

(1) Before any site modification where existing natural features would be disturbed or removed, a grading plan must be submitted to the city and approved by the city showing the extent of the proposed modification.

(2) Debris, waste, trees, timber, junk, rubbish or other materials of any kind shall not be buried in any land or deposited in any surface water.

(3) All erosion control plans must be in compliance with city standards, and MMC Title 14.

(4) In critical drainage areas, no clearing of lots shall be allowed until building permits and/or a grading permit has been issued. (Ord. 1986, 1994).

20.56.210 Utilities improvements.

All utility facilities shall be per city standards. (Ord. 1986, 1994).

20.56.220 Easements.

Permanent easements shall be provided for utilities and other public services identified at the time of preliminary site plan approval. (Ord. 1986, 1994).

20.56.230 Underground wiring.

(1) It is the intent of this provision to eliminate insofar as possible the installation of overhead wires and of wire carrying poles being henceforth developed under this article.

(2) All projects shall have all power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or lines placed in underground location either by direct burial or by means of conduit or ducts and with the exception of the city fire alarm system, providing service to each lot or potential building site in the plat.

(3) All such underground installations or systems shall be approved by the appropriate utility company and shall adhere to all governing applicable regulations including but not limited to the city and state applicable regulations and specific requirements of the appropriate utility.

(4) If the appropriate utility company will not approve an underground installation or system because it cannot reasonably be installed according

to accepted engineering practices, applicant may request a waiver of the requirement of underground installations or systems to the city engineer. If the city engineer concurs that under accepted engineering practices underground installations or systems cannot reasonably be installed he shall grant the waiver. If the city engineer does not concur, he shall make recommendations relating to the undergrounding of electrical service to the applicant for transmittal to the appropriate utility company.

(5) All utility easements within a proposed binding site plan shall be approved by the appropriate utility company before final acceptance of the binding site plan and shall be shown in their exact location on the final drawing of said plat.

(6) Nothing in this section or any other section of this title in relation to underground wiring shall apply to power lines carrying a voltage of 15 KV or more, nor shall it be construed to prohibit the placement of pad mounted transformers, terminal pedestals or other electrical and communications devices above ground, as determined by the appropriate utility involved. (Ord. 2161 § 2, 1997; Ord. 1986, 1994).

20.56.240 Improvements – Smooth transition required.

All improvements required by this title shall be extended as necessary to provide a smooth transition with existing improvements, both laterally across the street and longitudinally up and down the street, for utilities, vehicular and pedestrian traffic. (Ord. 1986, 1994).

20.56.250 Utility improvement plans.

All street and utility improvement plans shall be prepared by a state of Washington licensed civil engineer. All plans shall be prepared on reproducible mylar material and presented to the city for approval. (Ord. 1986, 1994).

20.56.260 Acceptance of improvements.

The city engineer is authorized to accept all improvements and/or right-of-way dedications required in this title on behalf of the city. (Ord. 1986, 1994).

20.56.270 Performance guarantee requirements.

(1) Site improvements shall be completed prior to approval of the final plat or short plat, or at the discretion of the city engineer, or his designee, a performance bond may be furnished guaranteeing such completion within one year from the date of acceptance of the plat. The performance bond shall be drawn in favor of the city in the amount specified by the city engineer, or his designee, or in lieu of a bond an equal sum placed in escrow. When all site improvements have been completed and all monuments and property corners have been properly placed, according to the required city standards, and have been approved by the city engineer, or his designee, the road bond or balance of money held in escrow shall be released to the subdivider.

(2) Guarantee funds will not be released by the city unless approval has been received from all applicable departments that are responsible for acceptance and/or maintenance of such improvements. (Ord. 1986, 1994).

20.56.280 Site improvements designated.

Site improvements shall include, but are not limited to: grading of entire width of street rights-of-way, asphalt/concrete surfacing of roadways (as per city standards contained in the street code), curbs, gutters and sidewalks constructed according to the street code and construction of drainage facilities included in the preliminary plat. The developer shall request inspection of the improvements by the city engineer or his designee at the following times:

(1) Erosion control measures are installed;

(2) Rough grading is complete and prior to placing pit run;

(3) Storm sewer completion;

(4) Roadway including curb and gutter completion;

(5) When all improvements, including monuments, have been placed.

All improvements which do not meet city standards shall be immediately replaced or repaired prior to proceeding. The city engineer, or his designee, will inform the developer in writing of any improvements which are not acceptable. (Ord. 1986, 1994).

20.56.290 Warranty requirements for acceptance of final improvements.

(1) After satisfactory completion of roadway improvements, including streets, curbs, gutters and sidewalks, and storm water drainage improvements, and after satisfactory completion of on-site retention facilities, if any, the owner and/or developer shall provide to the city a two-year warranty at 10 percent of all costs incurred for the roads, right-of-way improvements and storm drainage system and shall warrant against defects in the design, materials and workmanship relating to such improvements and facilities, and costs of maintaining and repairing said improvements and

facilities for said two-year period. The amount of the warranty shall be determined by the city engineer or his designee, and may be increased to as much as 20 percent of all costs incurred for roads, right-of-way improvements and storm drainage systems based on site characteristics/conditions. In lieu of a surety bond, the city may accept a cash

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bond, assignment of a bank account, or irrevocable letter of credit.

(2) For the purpose of this title, final approval shall not be given until such time as all of the required improvements have been satisfactorily installed in accordance with the requirements of preliminary approval and the approved road and storm plans, or bonded for as mentioned above. (Ord. 1986, 1994).

20.56.300 Survey required.

(1) A survey must be conducted by or under the supervision of a registered land surveyor licensed in the state of Washington. The surveyor shall certify on the binding site plan that it is a true and correct representation of the lands actually surveyed and the survey was done in accordance with city and state law.

(2) In all binding site plans, lot corners must be set before final approval can be granted.

(3) In all binding site plans, perimeter monuments must be set before final approval can be granted.

(4) In all binding site plans, control monuments must be set before final acceptance of public improvements. Performance guarantees must include the installation of all control monuments. Control monuments must be installed per city design and construction standards.

(5) In all binding site plans, where final approval is to be granted by the acceptance of a performance guarantee, lot corner and perimeter monuments must be set. The performance guarantee must include the resetting of any monument that has been lost during construction of public improvements. (Ord. 1986, 1994).

20.56.310 Dedication – Warranty deed.

Any dedication, donation or grant as shown on a binding site plan shall be considered a statutory warranty deed to the said grantee for the use intended. (Ord. 1986, 1994).

Chapter 20.60

MODIFICATIONS

Sections:

20.60.010 Modification.

20.60.010 Modification.

(1) Any applicant can request and make application to the city requesting a modification from the requirements of MMC 20.56.030 through 20.56.130.

(2) For a modification of 25 percent or less, it shall be considered by the planning director as an administrative decision.

(3) For a modification of more than 25 percent, it shall be considered by the hearing examiner at a public hearing.

(4) The modification shall not be granted by the planning director or hearing examiner until the following criteria have been established:

(a) There are exceptional circumstances or conditions such as: locations of existing structures, lot configuration, topographic or unique physical features that apply to the subject property which prohibit the applicant from meeting the standards of this title;

(b) The authorization of the modification or variation will not be detrimental to the public welfare or injurious to property in the vicinity or zone in which the property is located;

(c) A hardship would be incurred by the applicant if he/she complied with the strict application of the regulations. The filing of an application with the city requesting a modification for variation shall stay the running of the time period for binding site plans and development plans. (Ord. 1986, 1994).

Chapter 20.64

APPEALS

Sections:
20.64.010 Appeals to hearing examiner.

20.64.010 Appeals to hearing examiner.

(1) An appeal of the decision relating to the binding site plan shall be made to the hearing examiner. Such an appeal must be made in writing and filed with the office of the hearing examiner within 14 calendar days from the date on which the decision was rendered.

(2) The written appeal shall include a detailed explanation stating the reason for the appeal. The decision of the hearing examiner shall be final with a right of appeal to superior court as provided in MMC 15.11.030.

(3) Standing to appeal is limited to the following:

(a) The applicant or owner of the property on which the binding site plan is proposed;

(b) Any aggrieved person who will thereby suffer a direct and substantial impact from the proposed binding site plan; and

(c) RCW 58.17.180 grants standing to property owners within 300 feet of the subject property. (Ord. 2202 § 8, 1998; Ord. 1986, 1994).

Chapter 20.68

ENFORCEMENT AND PENALTIES

Sections:
20.68.010 Enforcement.
20.68.020 Violation – Nuisance declared.
20.68.030 Provisions not exclusive.
20.68.040 Severability.
20.68.050 Savings.

20.68.010 Enforcement.

The auditor shall refuse to accept for recording any binding site plan which does not bear the verification of approval as defined by this title. The city attorney is authorized to commence an action to restrain and enjoin a violation of this title and compel compliance with the provisions of this title. The costs of such action shall be taxed against the violator. (Ord. 1986, 1994).

20.68.020 Violation – Nuisance declared.

Any violation of the provisions of this title constitutes a public nuisance per se which the city can abate by an action in Snohomish County superior court. All costs of such action, including attorney fees, shall be taxed against the violator. (Ord. 1986, 1994).

20.68.030 Provisions not exclusive.

Penalty and enforcement provisions in this title are not exclusive, and the city may pursue any remedy or relief it deems appropriate. (Ord. 1986, 1994).

20.68.040 Severability.

If any provision of this title shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this title would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this title shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 1986, 1994).

20.68.050 Savings.

Nothing contained in this title shall be construed as abating any action now pending under or by virtue of any ordinance of the city herein repealed, or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of this title. (Ord. 1986, 1994).

Article III. Boundary Line Adjustments

Chapter 20.72

GENERAL PROVISIONS

Sections:
20.72.010 Title for citation.
20.72.020 Jurisdiction.
20.72.030 Purpose.
20.72.040 Administration.

20.72.010 Title for citation.

This article shall be known as the boundary line adjustment ordinance of the city of Marysville, and the requirements set forth in this article are applicable to all boundary line adjustments. (Ord. 1986, 1994).

20.72.020 Jurisdiction.

These regulations shall apply to all boundary line adjustments within the incorporated area of the city of Marysville. (Ord. 1986, 1994).

20.72.030 Purpose.

(1) The purpose of this article is to provide a method for approval of boundary line adjustments which does not create any additional lot, tract, parcel, building site or division, while insuring that such boundary line adjustment satisfies public concerns of health, safety and welfare. The boundary line adjustment ordinance shall not be utilized as a substitute for comprehensive subdividing or short subdividing in accordance with the requirements of the city's subdivision ordinance and Chapter 58.17 RCW.

(2) It is further the purpose of this article to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title.

(3) It is the specific intent of this article to place the obligation of complying with its requirements upon the property owner and applicant, and no provision or term used in this ordinance is intended to impose any duty whatsoever upon the city or any of its officers, employees, or agents for whom the implementation or enforcement of this article shall be discretionary and not mandatory.

(4) Nothing contained in this article is intended to be, nor shall be, construed to create or form the basis for any liability on the part the city, or its officers, employees or agents, for any injury or damage resulting from the failure to comply with this article, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this article, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this article by its officers, employees, or agents. (Ord. 1986, 1994).

20.72.040 Administration.

The planning director shall have the duty and responsibility of administering the provisions of this article with the authority to promulgate rules and regulations to implement and administer this article. (Ord. 1986, 1994).

Chapter 20.76

DEFINITIONS

Sections:

20.76.010 Applicant.
20.76.020 Boundary line adjustment.
20.76.030 Boundary lines.
20.76.040 Boundary line adjustment/survey map.
20.76.050 Building site.
20.76.060 City.
20.76.070 Department.
20.76.080 Planning director.
20.76.090 Environmentally sensitive areas.
20.76.100 Lot.
20.76.110 Lot line.
20.76.120 Nonconfining lot.
20.76.130 Parcel.
20.76.140 Public street.
20.76.150 Tract.
20.76.160 Zoning code.

20.76.010 Applicant.

Any person or corporation proposing a boundary line adjustment of any lot, tract, parcel, building site or division. (Ord. 1986, 1994).

20.76.020 Boundary line adjustment.

A division made for the purpose of adjusting lot lines between platted and unplatted lots or both which does not create any additional lot, tract, parcel, building site or division, nor create any lot, tract, parcel, building site or division which contains insufficient area and dimension to meet minimum requirements as specified by the city's zoning code for width and area for lots, tracts, parcels, building sites. (Ord. 1986, 1994).

20.76.030 Boundary lines.

Lines that separate and establish an area with fixed limits for lots, tracts, parcels or building sites. (Ord. 1986, 1994).

20.76.040 Boundary line adjustment/survey map.

A drawing to scale showing all the required information as specified in MMC 20.80.040(1). (Ord. 1986, 1994).

20.76.050 Building site.

Portion of a lot occupied or to be occupied by a building(s). (Ord. 1986, 1994).

20.76.060 City.

The City of Marysville. (Ord. 1986, 1994).

20.76.070 Department.

The city's planning and building department. (Ord. 1986, 1994).

20.76.080 Planning director.

Appointed by the mayor to administer the department of planning and building. (Ord. 1986, 1994).

20.76.090 Environmentally sensitive areas.

Those areas regulated by Chapter 18.28 MMC, and their buffers. (Ord. 1986, 1994).

20.76.100 Lot.

A fractional part of legally divided lands having fixed boundaries and being of sufficient area and dimension to meet minimum zoning requirements for width and area; and the term "lot" includes tracts and parcels. (Ord. 1986, 1994).

20.76.110 Lot line.

A line of record that divides a lot from another lot or from a public or private street or alley. (Ord. 1986, 1994).

20.76.120 Nonconfining lot.

A legally established lot, tract or parcel, the area dimensions or location of which met the applicable zoning code requirements in effect at the time the lot, tract or parcel was created, but which falls by reason of such adoption, revision or amendment of the zoning code to conform to the present requirements of the zone in which it is located. (Ord. 1986, 1994).

20.76.130 Parcel.

See definition for lot. (Ord. 1986, 1994).

20.76.140 Public street.

A right-of-way which provides vehicular and pedestrian access to adjacent properties, which the city has officially accepted into its street system. (Ord. 1986, 1994).

20.76.150 Tract.

See definition for lot. (Ord. 1986, 1994).

20.76.160 Zoning code.

City of Marysville zoning ordinance, MMC Title 19. (Ord. 1986, 1994).

Chapter 20.80

REVIEW PROCESS

Sections:

20.80.010 Application submittal.
20.80.020 Review process.
20.80.025 Boundary line adjustments with existing structures.
20.80.030 Approval.
20.80.040 Information for recording.
20.80.050 Survey required.
20.80.060 Recording.

20.80.010 Application submittal.

(1) Application Fees. The applicant shall pay the required fees as established by the city's fee ordinance when submitting the boundary line adjustment application. Note: county recording fees are the applicant's responsibility and must be paid to the county auditor by the applicant at the time of recording.

(2) Application Documents. A boundary line adjustment application shall consist of the following documents: application form, legal descriptions of existing and adjusted lot, tract, parcel or building site, affidavit of ownership, vicinity map, boundary line adjustment certificate including proof of legal lot status, declaration of legal documentation, and proposed boundary line adjustment/survey map. The city shall provide appropriate forms and application instructions. (Ord. 1986, 1994).

20.80.020 Review process.

(1) Action by the Department. If the boundary line adjustment application is complete and the required fee is paid, the department shall accept the application and conduct a city review.

(2) Action by Other City Departments. The department will circulate copies of the proposed boundary line adjustment application to the city's building, fire, and public works departments. Each department shall provide the department with recommendations within 10 calendar days from the time a completed application is received.

(3) Factors Considered by the Department. In order for a boundary line adjustment to be approved, it must comply with all of the following criteria. Failure to comply with any of the following criteria will result in denial:

(a) Boundary lines may not be adjusted which will result in the creation of any additional lot, tract, parcel, building site or division, nor create any lot, tract, parcel, building site or division which contains insufficient area dimension to meet the minimum requirements as specified by the city's zoning code for lots, tracts, parcels or building sites, except as permitted in subsection (4) of this section; and

(b) Boundary lines may not be adjusted between lots which have been created for tax purposes only. The applicant shall provide evidence of legal lot status; and

(c) Boundary lines may not be adjusted where the adjustment will result in an increase in the potential number of dwelling units on lots, tracts, parcels or building sites permitted; and

(d) Boundary lines of nonconforming lots may not be adjusted where the adjustment of the line(s) will result in making the lots, tracts, parcels or building sites more nonconforming; and

(e) Boundary lines may not be adjusted when the adjustment will result in the city being unable to provide adequate utilities; and

(f) Boundary lines may not be adjusted when the adjustment will result in inadequate frontage on a public street; and

(g) Boundary lines may not be adjusted where the adjustment will result in an inadequate building site for any lot containing area defined as environmentally sensitive; and

(h) Boundary lines may not be adjusted where the adjustment will result in a violation of a city or state code; and

(i) Boundary lines in commercial or industrial zones may not be adjusted unless the criteria of MMC 20.80.025 are satisfied.

(4) Decision. Following review of the application, a written notice of approval or disapproval shall be issued to the applicant within 30 calendar days of receiving the completed application. (Ord. 2465 § 1, 2003; Ord. 1986, 1994).

20.80.025 Boundary line adjustments with existing structures.

When boundary line adjustments are submitted proposing the adjustment of lines with existing structures in commercial or industrial zones, the existing structures shall be required to comply with all zoning code requirements including, but not limited to, such things as setback, parking, height, landscaping and access requirements as a condition of boundary line adjustment approval. The applicant shall be required to submit a site plan showing that all of these requirements can be met prior to approval. (Ord. 2465 § 2, 2003).

20.80.030 Approval.

Time Limits For Approval. The applicant must submit and complete all required documents as specified by this title within six months following the date of approval. Failure to submit and complete the required documents within the six-month period will result in lapse of the approval, requiring the submittal of a new application for consideration of the department. No time extension will be granted; the final required documents must be recorded within the above stated time frame. (Ord. 1986, 1994).

20.80.040 Information for recording.

Information for recording must include the following:

(1) Original Mylar of Boundary Line Adjustment/Survey Map. After the city has given the applicant approval, the applicant shall submit the original mylar map, a photo mylar map and two blue line maps prepared by a registered land surveyor, drawn in ink on mylar, having a trimmed size of 18 by 24 inches. If authorized by the city, the applicant may submit two photo mylars instead of the one original and one photo mylar. Information required on the map shall include:

(a) The date, scale and north arrow;

(b) Boundary lines (both present and revised), right-of-way for streets, easements and property lines of lots, tracts, parcels or sites, with accurate bearings, dimensions or angles and arcs, and central angles of all curves;

(c) Names and right-of-way widths of all streets;

(d) Number of each lot, tract, parcel or building site and each block;

(e) Description of private covenants and special restrictions;

(f) Location, dimensions and purpose of any easements;

(g) Location and description of monuments and lot, tract, parcel or building site corners set and found;

(h) If required to define flood elevations or other features relative to the lot, then datum elevations and primary control points approved by the city. Descriptions and ties to all control points will be shown with dimensions, angles and bearings;

(i) Designation by phantom letters of the lot(s), tracts, parcels or building sites existing prior to the boundary line adjustment, and designation by solid letters of the proposed lots, tracts, parcels or building sites;

(j) Special setback lines when different from city's zoning code;

(k) A dedicatory statement acknowledging any public or private dedications, donations or grants;

(l) Location of existing structures, utilities, setbacks, encroachments and area of all lots, tracts, parcels or building sites after adjustment;

(m) The file number of the boundary line adjustment must be on the boundary line adjustment/survey map with the legal description of the total area being adjusted before the boundary line adjustment/survey is ready for recording.

(2) Certificates.

(a) "Examined, found to be in conformity with applicable zoning and other land use controls, and approved this ____ day of ____, 19__.

_____

Planning Director"

(b) "I hereby certify that this boundary line adjustment is based upon an actual survey and subdivision of Section ____, Township ___ North, Range ___ EWM; that the distances, courses and angles are shown thereon correctly; that the monuments shall be set and lot corners shall be staked correctly on the ground, that I fully complied with the provisions of the state and local statutes and regulations governing surveying.

_____

Licensed Land Surveyor

(Seal)"

(c) Vicinity Map. A vicinity map clearly identifying the location of the property shall be submitted.

(d) Legal Descriptions. All boundary line adjustment application submittals shall include legal descriptions of the existing and proposed lots, tracts, parcels or building sites. The applicant is also required to submit a legal descriptions for the area being conveyed at the time of the application. All legal descriptions must be prepared by a licensed surveyor in the state of Washington, attorney, or title company.

(e) Affidavit of Ownership. All boundary line adjustment application submittals shall be accompanied by a notarized signature of the owner, and owners of the property subject to the boundary line adjustment. Those signing as owners must conform to those designated as owners in the boundary line adjustment certificate. The recording number of the boundary line adjustment/survey map shall be on the affidavit of ownership form.

(f) Declaration of Legal Documentation. All boundary line adjustment application submittals shall be accompanied by a notarized statement containing:

(i) The signatures of owner, or owners of the property subject to the boundary line adjustment, declaring that they are solely responsible for securing and executing all necessary legal advice or assistance concerning the legal documents necessary to transfer title to those portions of the properties involved in the boundary line adjustment; and

(ii) a declaration that the legal documents necessary to transfer title to the property in question have been prepared and executed so that upon the recording of the boundary line adjustment, the title to the properties will accurately reflect the new configuration resulting from the boundary line adjustment as approved by the city.

(g) Boundary Line Adjustment Certificate. All boundary line adjustment application submittals shall be accompanied by a boundary line adjustment certificate current to within 30 days of date submitted from a title company that certifies the following:

(i) The legal description of all lots, parcels, tracts or building sites to be adjusted; and

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(ii) The names of the owners of any lots, tracts, parcels or building sites to be adjusted; and

(iii) Any easements, restrictions or covenants affecting the property to be adjusted, with a description of such easements, restrictions and covenants. (Ord. 1986, 1994).

20.80.050 Survey required.

(1) A survey for a boundary line adjustment must be conducted by or under the supervision of a registered Washington State licensed land surveyor. The surveyor shall certify on the boundary line adjustment/survey (mylar) map that it is a true and correct representation of the lands actually surveyed, in accordance with city and state law.

(2) The survey must indicate that all lot corners are staked. The survey must also show all encroachment(s), buildings and setbacks from property lines.

(3) A record of survey must be filed with the county auditor in accordance with Chapter 58.09 RCW.

(4) Based on the complexity of the proposed boundary line adjustment the planning director may waive the requirement for survey on a case-by-case basis. (Ord. 1986, 1994).

20.80.060 Recording.

Recording with Auditor. When the boundary line adjustment proposed for recording has been signed by the planning director, and the applicant has complied with all of the requirements of this title and state law, then the applicant shall record the original boundary line adjustment/survey map and the original affidavit of ownership with the county auditor. The applicant will also furnish the city with one reproduced photo copy of the recorded boundary line adjustment/survey map. After this has been done and the boundary line adjustment has been properly recorded, the boundary line adjustment will become valid. The applicant is responsible for recording the boundary line adjustment and paying all associated recording fees. It shall be a violation of this title for anyone to record a boundary line adjustment which does not bear the verification of approval as defined by this title. (Ord. 1986, 1994).

Chapter 20.84

APPEALS

Sections:

20.84.010 Boundary line adjustments – Appeals to hearing examiner.
20.84.020 Time period stay – Effect of appeal.

20.84.010 Boundary line adjustments – Appeals to hearing examiner.

(1) All appeals of decisions relating to boundary line adjustments shall be made to the hearing examiner. Such appeals must be made in writing and filed with the office of the hearing examiner within 14 calendar days from the date on which the decision was rendered.

(2) The written appeal shall include a detailed explanation stating the reason for the appeal. The decision of the hearing examiner shall be final with a right of appeal to superior court as provided in MMC 15.11.030.

(3) Standing to appeal is limited to the following:

(a) The applicant or owner of the property on which the boundary line adjustment is proposed;

(b) Any aggrieved person will thereby suffer a direct and substantial impact from the proposed boundary line adjustment. (Ord. 2202 § 9, 1998; Ord. 1986, 1994).

20.84.020 Time period stay – Effect of appeal.

The filing of an appeal shall stay the running of the time periods for boundary line adjustment approval as are set forth in this title. (Ord. 2202 § 9, 1998; Ord. 1986, 1994).

Chapter 20.88

ENFORCEMENT AND PENALTIES

Sections:
20.88.010 Violation.
20.88.020 Severability.
20.88.030 Savings.

20.88.010 Violation.

(1) Penalty. Any person, firm or corporation, or association, or any agent of any person, firm or corporation, or association who violates any provision of this title shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine not to exceed $1,000, or imprisonment in jail not to exceed 90 days, or both imprisonment and fine. Each separate day, or any portion thereof, during which any violation of any provision of this title occurs or continues, shall be deemed a separate and distinct offense.

(2) Civil Action. Any violation of the provisions of this title constitutes a public nuisance per se which the city can abate by an action in Snohomish County Superior Court. The city attorney is authorized to commence an action to restrain and enjoin a violation of this ordinance and compel compliance with the provisions of this title. The cost of such action shall be taxed against the violator.

(3) Enforcement Provisions. Penalty and enforcement provisions provided in this title are not exclusive, and the city may pursue any remedy or relief deemed appropriate. (Ord. 1986, 1994).

20.88.020 Severability.

If any provision of this title shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this title would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this title shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 1986, 1994).

20.88.030 Savings.

Nothing contained in this title shall be construed as abating any action now pending under or by virtue of any ordinance of the city herein repealed, or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of the ordinance codified in this title. (Ord. 1986, 1994).

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161 LID fund created (Special)
162 Specifications for sidewalks (12.16)
163 Improving street (Special)
164 LID fund created (Special)
165 Amends Ord. 81, liquor license (Repealed by 308)
166 Amends Ord. 81, liquor license (Repealed by 308)
167 Improving street (Special)
168 LID fund created (Special)
169 Amends Ord. 167, improving street (Special)
170 Delinquent assessment installments penalty (Obsolete, superseded by statute)
171 Franchise to lumber company (Special)
172 Franchise to railroad (Special)
173 Amends Ord. 126, salaries of officers (Repealed by 303)
174 Designating official newspaper (1.04)
175 Procedure for local improvements (Obsolete, superseded by statute)
176 Improving street (Special)
177 Improving street (Special)
178 Improving street (Special)
179 Confirming assessment roll (Special)
180 Confirming assessment roll (Special)
181 Approving amended assessment roll (Special)
182 Improving street (Special)
183 Vacating portion of street (Special)
184 Improving street (Special)
185 Improving street (Special)
186 Amends Ord. 175, method for local improvements (Obsolete, superseded by statute)
187 Improving street (Special)
188 Approving assessment roll (Special)
189 Approving assessment roll (Special)
190 Approving assessment roll (Special)
191 Approving assessment roll (Special)
192 Amends Ord. 191, approving assessment roll (Special)
193 Fixing corporate limits (Special)
194 Liquor control (Obsolete)
195 Improving street (Special)
196 Improving street (Special)
197 Improving street (Special)
198 Improving street (Special)
199 Approving assessment roll (Special)
200 Approving assessment roll (Special)
201 Approving assessment roll (Special)
202 Approving assessment roll (Special)
203 Domestic fowl (Superseded by 428)
204 Improving street (Special)
205 Vehicular traffic (Repealed by 349)
206 Criminal syndicalism (Repealed by 965)
207 Improving street (Special)
208 Current expense fund created (3.32)
209 Circuses, carnivals, etc., licensing (Repealed by 1770)

210 Licensing carrying goods or persons (Repealed by 349 and 369)
211 Naming streets and numbering buildings (Repealed by 308)
212 Improving street (Special)
213 Improving street (Special)
214 Approving assessment roll (Special)
215 Approving assessment roll (Special)
216 Improving street (Special)
217 Election to construct waterworks (Repealed by 224)
218 Election to purchase water supply (Repealed by 225)
219 Approving assessment roll (Special)
220 Amends Ord. 175, method for local improvements (Obsolete, superseded by statute)
221 Improving street (Special)
222 Board of park commissioners (Repealed by 1369)
223 Office of superintendent of parks (Repealed by 930)
224 Pipeline construction (Special)
225 Election to acquire water supply (Special)
226 Acquiring and operating waterworks (Special)
227 Water system maps and plans (Special)
228 Bond issue for water department (Special)
229 Condemnation for water system (Special)
230 Amends Ord. 229, condemnation for water system (Special)
231 Salary of treasurer (Repealed by 303)
232 Superintendent of waterworks, office created (Repealed by 476)
233 Water department (Repealed by 476)
234 Salary and bonds of officers (Repealed by 303)
235 Confirming assessment roll (Special)
236 Amends Ord. 233, department (Repealed by 476)
237 Local improvement bond issue (Special)
238 Franchise to oil company for warehouse (Special)
239 Improving street (Special)
240 Vacating part of alley (Special)
241 Franchise to oil company for warehouse (Special)
242 Confirming assessment roll (Special)
243 Office of night watchman created (Obsolete)
244 Licensing and regulating peddling (Impliedly repealed by 510)
245 Amends Ords. 233, 236, water department (Repealed by 476)
246 Parking and safety zones (Repealed by 349)
247 Vacating part of street (Special)
248 LID establishment and improvements (Special)
249 Improving street (Special)
250 Plumbing code (Superseded by 507)
251 Keeping dogs (Repealed by 291)
252 Fire inspection and protection (Superseded by 419)
253 Local improvement guaranty fund (3.16)
254 Confirming assessment roll (Special)
255 Amends Ord. 246, parking and safety zones (Repealed by 349)
256 Sewer connection methods (Repealed by 476)
257 Plumbing and sewer inspector (Repealed by 930)
258 Confirming assessment roll (Special)
259 Vacating land, streets and alleys (Special)
260 Salaries of officers (Superseded by 477)
261 Approving assessment roll (Special)
262 Amends Ord. 175, procedure for local improvements (Obsolete, superseded by statute)
263 LID 35 reassessment (Special)
264 Vacating part of street (Special)
265 Improving street (Special)
266 Naming streets and numbering buildings (12.04)
267 Confirming assessment roll (Special)
268 Vehicular traffic (Repealed by 349 and 369)
269 (Ordinance passed but not published)
270 Improving street (Special)
271 Waterworks revenue bonds and improvements (Special)
272 Confirming assessment roll (Special)
273 Garbage disposal (Repealed by 436)
274 Special water revenue bond issue (Special)
275 Amends Ord. 251, licensing and keeping dogs (Repealed by 291)
276 Special election to purchase fire equipment (Special)
277 Special election to purchase fire equipment (Special)
278 Authorizing purchase of fire equipment (Special)
279 Amends Ord. 244, licensing and regulating peddlers (Impliedly repealed by 510)
280 Improving street (Special)
281 Garbage collection system, sanitation fund (Superseded by 436)
282 Approving assessment roll (Special)
283 Garbage collection, sanitation fund (Repealed by 436)
284 Salaries of officers (Repealed by 303)
285 Improving street (Special)
286 Amends Ord. 251, dogs at large (Repealed by 291)
287 Dances and dance halls (Repealed by 1636)
288 Approving assessment roll (Special)
289 Amends Ord. 288, fixes time for bond issue (Special)
290 Salaries of officers (Repealed by 303)
291 Licensing and keeping dogs (Repealed by 308)
292 Sale of beer and wine (Repealed by 308)
293 Amends Ord. 292, sale of beer and wine (Repealed by 308)
294 Amends Ord. 292, sale of beer and wine (Repealed by 308)
295 Amends Ord. 244, licensing and regulating peddling (Impliedly repealed by 510)
296 Bond issue (Special)
297 Traffic (Repealed by 349)
298 Liquor (Obsolete)
299 Amends Ord. 299, liquor (Obsolete)
300 Building code (Superseded)
301 Traffic (Repealed by 349)
302 Dogs at large (Repealed by 389)
303 Salaries (Superseded by 477)
304 (Missing)

305 Bond issue (Special)
306 (Missing)
307 Licensing pinballs (Repealed by 831)
308 Repealer
309 Alley vacation (Special)
310 Plan to increase waterworks (Special)
311 Street improvement (Special)
312 Street improvement (Special)
313 Street improvement (Special)
314 Street improvement (Special)
315 Not effective
316 Street improvement (Special)
317 Plan to increase waterworks (Special)
318 Confirms special election (Special)
319 Amends Ord. 318, special election (Special)
320 Amends Ord. 318, special election (Special)
321 Approving assessment roll (Special)
322 Traffic code (Repealed by 349)
323 Vacating part of street (Special)
324 Approving assessment roll (Special)
325 Approving assessment roll (Special)
326 Approving assessment roll (Special)
327 Approving assessment roll (Special)
328 LID 41-44, facsimile signatures (Special)
329 Approving assessment roll (Special)
330 Salaries (Repealed by 350 and 359)
331 Use of water for sprinkling (Repealed by 950)
332 House moving permits (Repealed by 394)
333 Municipal defense commission (Not codified)
334 Salaries (Repealed by 350 and 359)
335 Providing for blackout during wartime (Not codified)
336 Cumulative reserve fund for building established (Repealed by 1307)
337 Civilian defense account created (Not codified)
337A Civilian defense fund established (Not codified)
338 Wartime illumination control (Not codified)
339 Salaries (Repealed by 350 and 359)
340 Appropriation (Special)
341 Salaries (Repealed by 350 and 359)
342 Suspending certain purchases during war (Not codified)
343 State aid fund created (Not codified)
344 Admissions tax (Repealed by 1738)
345 Salaries of officers (Repealed by 350 and 359)
346 Curfew (Superseded by 500)
347 Licensing taxis (Repealed by 1143)
348 Salaries of officers (Repealed by 350 and 359)
349 Traffic code (superseded by 415)
350 Salaries of officers (Repealed by 359)
351 Authorizing expenditures (Special)
352 Motion picture theaters (Repealed by 850)
353 Office of building inspector created (Superseded by 478)
354 Amends Ord. 233, water department (Repealed by 476)
355 Salary of garbage collector (Superseded by 477)
356 Improving alley (Special)
357 Authorizing expenditure (Special)
358 Authorizing expenditure (Special)
359 Salaries (Superseded by 477)
360 Approving assessment roll (Special)
361 Amends Ord. 233, use of water (Repealed by 476)
362 Improving street (Special)
363 Amends Ord. 233, pipe sizes (Repealed by 476)
364 Salaries (Repealed by 368)
365 Approving assessment roll (Special)
366 Amends Ord. 250, sewer and cesspool connections (Superseded by 507)
367 Improving street (Special)
368 Salaries (Repealed by 370)
369 Amends Ord. 347, licensing taxis (Repealed by 1143)
370 Salaries (Repealed by 376)
371 Vacating streets and alleys (Special)
372 Caucus for nomination of officers (Repealed by 440)
373 Special election for additional property tax (Special)
374 Amends Ord. 76, escape from custody (Repealed by 743)
375 Petit larceny (Superseded by 501)
376 Salaries (Repealed by 383)
377 Firemen relief and pension fund (Repealed by 1455)
378 Participation in OASI (2.52)
379 Gross revenue tax, electric public utility districts (Repealed by 1094)
380 Cumulative reserve fund for fire equipment established (Repealed by 1307)
381 Adopting budget and levying tax for 1952 (Special)
382 Connection charges for water service (Repealed by 396)
383 Salaries (Repealed by 388)
384 Waterworks extension (Special)
385 Water and sewer system revenue fund (Superseded by 476)
386 Water connection charges (Repealed by 391A)
387 Garbage collection (Repealed by 436)
388 Salaries (Repealed by 393)
389 Dogs at large (Superseded by 458)
390 Library board and regulations (Repealed by 790)
391 Amends Ord. 307, licensing pinball games (Repealed by 831)
391A Amends Ord. 233, water connection charges (Repealed by 476)
392 Amends Ord. 349, traffic (Superseded by 415)
393 Salaries (Repealed by 406)
394 Permit for moving buildings (Repealed by 1078)
395 Water revenue bond issue (Special)
396 Amends Ord. 233, water meters (Superseded by 476)
397 Amends Ord. 393, salaries (Repealed by 406)
398 Amends Ord. 283, garbage (Repealed by 436)
399 Annexing certain property (Special)
400 Annexing certain property (Special)
401 Amends Ord. 256, sewer connection charges (Repealed by 423)
402 Planning commission (Repealed by 1298)

403 Adopting plan for natural gas utility (Special)
404 Improving street (Special)
405 Amends Ord. 387, garbage collection (Repealed by 438)
406 Salaries of officers (Repealed by 418)
407 Amends Ord. 396, water rates (Superseded by 476)
408 Water revenue bond issue (Special)
409 Annexing certain property (Special)
410 Amends Ord. 233, sewer connection charges (Repealed by 476)
411 Annexing certain property (Special)
412 Amends Ord. 377, volunteer fire department (Repealed by 1455)
413 Approving assessment roll (Special)
414 Additions to sewer system (Special)
415 Traffic (11.16)
416 Installing water main (Special)
417 Fire equipment use outside city (Repealed by 850)
418 Salaries of officers (Superseded by 477)
419 Adopting fire prevention code (Repealed by 850)
420 Amends Ord. 372, terms of elective officers (Repealed by 440)
421 Amends Ord. 209, theaters, carnivals, etc., licensing (Repealed by 1770)
422 Disposition of liquor to minors (Superseded by 500)
423 Amends Ord. 256, sewer connection charges (Repealed by 476)
424 Prohibiting fireworks (Superseded by 479)
425 Approving assessment roll (Special)
426 Franchise for telephone company (Special)
427 Amends Ord. 396, water use (Repealed by 476)
428 Domestic fowl (Repealed by 542)
429 Franchise for gas company (Special)
430 Salaries of officers (Repealed by 442)
431 Amends Ord. 415, traffic (11.16)
432 Trailers and trailer camps (Repealed by 1249)
433 Adopting plan to extend waterworks (Special)
434 Licensing gas installation contractors (Repealed by 1600)
435 Vacating street (Special)
436 Garbage disposal (7.08)
437 Amends Ord. 298, liquor sales (Obsolete)
438 Garbage collection rates (7.08)
439 Amends Ord. 344, admissions tax (Repealed by 1738)
440 Filing and fees of candidates (Repealed by 1436)
441 Prohibiting sound trucks (Repealed by 1419)
442 Salaries of officers (Repealed by 450)
443 Amends Ord. 434, gas contractors (Repealed by 1600)
444 Prohibiting jaywalking (Repealed by 965)
445 Amends Ord. 256, discharge into sewers (Superseded by 476)
446 Amends Ord. 385, sewer use charges (Repealed by 476)
447 Prohibiting fireworks (Superseded by 479)
448 Amends Ord. 402, planning commission (Repealed by 1298)
449 Amends Ord. 439, admission taxes (Repealed by 1738)
450 Salaries of officers (Superseded by 477)
451 Annexing property (Special)
452 Authorizing expenditure (Special)
453 Adopting plan for extending water system (Special)
454 Reserve fund for sewerage lagoon (Special)
455 Water and sewer bond issue (Special)
456 Cumulative reserve fund for patrol car (Repealed by 1307)
457 Salaries of officers (Repealed by 466)
458 Licensing dogs and cats (Repealed by 2013)
459 Annexing property (Special)
460 Zoning (Repealed by 2131)
461 Dog leash law referendum (Repealed by 2013)
462 Poundkeeper, appointment, salary (Repealed by 2013)
463 Amends Ord. 460, zoning (Repealed by 2131)
464 Building code adoption (Superseded by 478)
465 Fire zones (Repealed by 791)
466 Salaries (Repealed by 477)
467 Adopting plumbing code (Superseded by 507)
468 Auxiliary police force (Repealed by 1606)
469 Civil defense council established (Repealed by 1440)
470 Amends Ord. 460, zoning (Repealed by 2131)
471 Annexation (Repealed by 481)
472 Amends Ord. 460, zoning (Repealed by 2131)
473 Appropriation and warrants (Special)
474 Special election for advance to third class city (Special)
475 Annexation (Repealed by 481)
476 Combining water and sewer systems, providing for code (3.40)
477 Salaries (Repealed by 490)
478 Adopting building code (Repealed by 1434)
479 Fireworks (9.20)
480 Civil service commission for city police (2.16)
481 Annexing property (Special)
482 Annexing property (Special)
483 Budget for 1963 (Special)
484 Tax levy (Special)
485 Appropriation (Special)
486 Amends Ord. 344, admission tax (Repealed by 1738)
487 Amends Ord. 432, trailers and trailer camps (Repealed by 1249)
488 Office of street superintendent (Repealed by 1248)
489 Office of fire marshal (Repealed by 611)
490 Salaries (Repealed by 508)
491 Cumulative reserve street fund established (Repealed by 1307)
492 Authorizing participation in state retirement system (2.56)
493 Appropriation (Special)
494 Waterworks plan, bond (Repealed by 1521)
495 Appropriation (Special)
496 Duties and salary of engineer (Repealed by 1070)

497 Bond issue (Special)
498 Amends Ord. 344, admission tax (Repealed by 1738)
499 Establishing commercial zone (Repealed by 2131)
500 Conduct of minors (Repealed by 965)
501 Crimes against property (Repealed by 965)
502 Annexing tract (Special)
503 Amends Ord. 412, volunteer fire department (Repealed by 1455)
504 Budget for 1964 (Special)
505 Tax levy (Special)
506 Vagrancy (Repealed by 965)
507 Adopting plumbing code (Superseded by 556)
508 Salaries (Repealed by 529)
509 Budget change (Special)
510 Peddlers and itinerant merchants (5.60)
511 Crimes against the person (Repealed by 965)
512 Crimes by or against public officers (Repealed by 965)
513 Zoning, lot sizes (Repealed by 2131)
514 Trespass (Repealed by 965)
515 Narcotics control (Repealed by 965)
516 Crimes against morality and decency (Repealed by 965)
517 Crimes against the peace (Repealed by 965)
518 Registration of felons (Repealed by 965)
519 Board of park commissioners created (Repealed by 1369)
520 Crimes against public health and safety (Repealed by 965)
521 Criminal code definitions (Repealed by 965)
522 Malicious prosecution and criminal contempt (Repealed by 965)
523 Amends Ord. 456, cumulative reserve fund (Repealed by 1307)
524 Firearms and weapons (Repealed by 965)
525 Adopting code (1.01)
526 Budget for 1965 (Special)
527 Property tax for 1965 (Special)
528 Building code
529 Salaries (Repealed by 549)
530 Street names (Special)
531 Vacation of street (Special)
532 Annexation of property (Special)
533 Assessment roll (Special)
534 Platting ordinance (Repealed by 734)
535 Creates LID #50 (Special)
536 Water supply or sewage disposal improvement fund (Repealed by 1307)
537 Sewage collection system betterment fund (Superseded by 664)
538 Water transmission and distribution systems betterment fund (Superseded by 664)
539 Repeals § 7 and § 10 of Ord. 479 (Repealer)
540 Approves assessment for LID No. 50 (Special)
541 Annexation of property (Special)
542 Fowl and livestock (Repealed by 2013)
543 Waterworks improvements (Special)
544 Amends § 6.64.070, concealed weapons (Repealed by 965)
545 Annexation of property (Special)
546 Budget for 1966 (Special)
547 Levy for funds (Special)
548 Repeals Ch. 14.08 (Repealer)
549 Salaries; repeals Ord. 529 (Repealed by 569)
550 Grants franchise to Colorcable, Inc. (Special)
551 Amends Ord. 540, LID No. 50 (Special)
552 Annexing property (Special)
553 Amends Ord. 549, salaries (Superseded by 569)
554 Amends Section 23, Water System Code (Superseded by 559)
555 Regulating construction, erection, maintenance and operation, advertising and display signs (Repealed by 555)
556 Adopting 1964 edition, Uniform Plumbing Code (16.08)
557 Amends Ch. 19.20, zoning (Repealed by 2131)
558 Amends Ch. 19.16, zoning (Repealed by 2131)
559 Adopting 1966 edition, Water and Sewer System Code (Repealed by 1434)
560 Creating LID No. 51 (Special)
561 Adopting Fire Prevention Code (Repealed by 850)
562 Creating LID No. 52 (Special)
563 Amends § 7.08.110, garbage collection rates (7.08)
564 Parking on city streets (Repealed by 1600)
565 Tax levy (Special)
566 Budget for 1967 (Special)
567 Grants franchise to GT&E Communications, Inc., for cable TV system (Repealed by 1470)
568 Grants franchise to Colorcable, Inc., for cable TV system (Special)
569 Salaries; repeals Ord. 549 (Repealed by 1368)
570 Business occupancy permit (Repealed by 1498)
571 Amends Ord. 559, water and sewer rates (Repealed by 1434)
572 Establishes Cumulative Reserve Fund for Storm Drain Betterment (Repealed by 1307)
573 Regulating private storm drains (Repealed by 1232)
574 Assessment, LID No. 51 (Special)
575 Makes offices of city clerk and city attorney appointive (2.28)
576 Adds § 3.05, Article III; amends § 5.03; Article V, Water System Code; amends § 5.02, Sewer System Code (Repealed by 1434)
577 Utilities tax (Repealed by 783)
578 Regulates dangerous buildings (16.20)
579 Establishes light manufacturing zone (Repealed by 2131)
580 Annexation zoning (Special)
581 Water and sewer revenue bonds (Special)
582 Authorizes issuance of warrants for water and sewer construction fund (Special)
583 Confirms assessment roll of LID No. 52 (Special)
584 Adds § 5.06; amends § 5.05 of sewer system code (Repealed by 1434)

585 Annexation (Special)
586 Amends Ord. 581, water and sewer revenue bonds (Special)
587 Annexation zoning (Special)
588 Adds § 6.04 to water system code (Repealed by 1434)
589 Annexation (Special)
590 Not passed
591 Regulates LID No. 52 bonds (Special)
592 Regulates LID No. 51 bonds (Special)
593 Amends §§ 5.02, 5.03 and 5.06, sewer system code (Repealed by 1434)
594 Authorizes issuance of warrants for water and sewer construction fund (Special)
595 Provides for issuance of water and sewer revenue bonds 1967 (Special)
596 Creates LID (Special)
597 Establishes mileage allowance for city personnel (Repealed by 1368)
598 Compensation of mayor and councilmen (Repealed by 1368)
599 Regulates sale of intoxicating liquors (5.32)
600 Vacates 8th Street (Special)
601 Annexation (Special)
602 Adopts 1968 budget (Special)
603 Levies taxes (Special)
604 Rezone (Special)
605 Establishes compensation rates; repeals Ord. 569 (Repealed by 646)
606 Property vacation (Special)
607 Amends §§ 5.01A and 5.01D; adds § 5.01E to water system code; adds § 3.08 to sewer system code (Repealed by 1434)
608 Provides for issuance of water and sewer revenue bonds (Special)
609 Amends §§ 1.01 and 5.04 of water system code; amends §§ 1.01, 5.02, 5.05 and 5.06 of sewer system code (Repealed by 1434)
610 Authorizes special expenditure (Special)
611 Creates office of fire chief; repeals Ch. 2.40 (Repealed by 1247)
612 Authorizes issuance of warrant (Special)
613 Adopts street department code (12.02)
614 Approves and confirms LID No. 53 (Special)
615 Repeals Ord. 612, fund transfer (Special)
616 Amends § 7.08 of Ord. 563, garbage collection (7.08)
617 Requirements for building permit or certificate of occupancy (Repealed by 1079)
618 Amends salary ordinance (Special)
619 Annexation (Special)
620 Vacation of public ways (Special)
621 Amends Ch. 16.08, plumbing code (16.08)
622 Adopts Uniform Building Code (Repealed by 729)
623 Speed limits (Not codified)
624 Creates civil service commission for city firemen (Repealed by 1255)
625 Authorizes emergency expenditure (Special)
626 Issues warrant (Special)
627 Amends Ord. 415, traffic (Repealed by 940)
628 Fixes amount, form, date, interest rate etc. for LID No. 53 (Special)
629 Adds § 5.07 to sewer system code (Repealed by 1434)
630 Amends Ord. 573, sewers (Repealed by 1232)
631 Parking (Not codified)
632 Creates LID (Special)
633 Adds § 5.07 to sewer system code (Repealed by 1434)
634 Authorizes issuance of warrant (Special)
635 Transfers supervision of garbage and refuse department (Repealed by 1248)
636 Provides for one-way traffic (Not codified)
637 Adds 11.6 to § 2.03 of water system code (Repealed by 1434)
638 Vacation of public ways (Special)
639 Placement of stop signs (Not codified)
640 Minimum licensing requirements of day care centers (Repealed by 1753)
641 Additions to waterworks utility (Special)
642 Amends Ord. 622, code violations (Repealed by 730)
643 Authorizes contractual agreement (Special)
644 Adopts 1969 budget (Special)
645 Tax levy (Special)
646 Compensation; repeals Ord. 605 (Repealed by 689)
647 Junked or abandoned motor vehicles (Repealed by 860)
648 Superintendent of water and sewer department (Repealed by 930)
649 Application for building permits (Repealed by 1079)
650 Adopts comprehensive plan (Special)
651 (Special)
652 Approves and confirms LID No. 54 (Special)
653 Driving while intoxicated (Repealed by 940, 965)
654 Amends Ord. 608, addition to waterworks utility (Special)
655 Shoplifting (Repealed by 965)
656 Annexation (Special)
657 Street closure (12.28)
658 Parking (Repealed by 1283)
659 Adds § 6.20.115, vagrancy (Repealed by 965)
660 Creates LID (Special)
661 Provides for storm sewer construction bonds (Special)
662 Adds § 3.01H, Article III, sewer system code (Repealed by 1193)
663 Amends § 2.03, Article II, water system code (Repealed by 1434)
664 Replaces Chs. 3.30 and 3.31, utility construction fund (3.30)
665 Amends § 19.44.010, zoning (Repealed by 2131)
666 Salary ordinance (Repealed by 1368)
667 Amends § 5.03, Article V, water system code (Repealed by 1434)
668 Authorizes issuance of water and sewer revenue bonds (Special)

669 Authorizes issuance of general obligation bonds (Special)
670 Rezone (Special)
671 Sanitation capital improvement and acquisition fund (Repealed by 1307)
672 Utility department (Repealed by 1136)
673 Annexation (Special)
674 Amends § 5.05, sewer system code (Repealed by 1434)
675 Not codified
676 Traffic (Repealed by 1989)
677 Not codified
678 Provides for trunk sewer A (Special)
679 Authorizes general obligation street bonds (Special)
680 Fixes amount of LID No. 54 bonds (Special)
681 Compensation (Repealed by 1368)
682 Arterial street system (Repealed by 1387)
683 Tax levy (Special)
684 Storm sewers (Repealed by 1232)
685 Annexation (Special)
686 (Not codified)
687 Repeals § 1.02, Art. I, water system code and § 1.02, Art. I, sewer system code; adds new § 1.02, Art. I, water system code and § 1.02, sewer system code (Repealed by 1434)
688 Confirms LID No. 55 assessment roll (Special)
689 Compensation (Repealed by 718)
690 Adopts 1970 budget (Special)
691 Amends § 2.50.170, city employees' compensation (Repealed by 1368)
692 Adds § 14.24.020 and § 14.24.030, water and sewers (Repealed by 1172)
693 Adds § 14.24.010, water and sewers (Repealed by 1172)
694 Amends § 14.12.020, sewer rates (Repealed by 1434)
695 Rezone (Special)
696 Amends § 14.04.155, sewer code (Repealed by 1434)
697 Street widening for pedestrian mall (Special)
698 Fund transfer (Special)
699 Repeals § 19.20.130, zoning (Repealer)
700 Amends § 12.02.010; adds §§ 12.02.040 – 12.02.120, street department code (12.02)
701 Adds Title 20, subdivision (Repealed by 1986)
702 Adds Ch. 5.44, sales or use tax (Repealed by 1234)
703 Pedestrian mall provisions (Special)
704 Traffic regulations on certain streets (Repealed by 717)
705 Amends § 11.36.010, arterial street system (Repealed)
706 Adds § 12.02.130, street department code (12.02)
707 Adds §§ 12.02.140 and 12.02.150, street department code (12.02)
708 Annexation (Special)
709 Adds §§ 11.46.080 – 11.46.100, traffic regulations on certain streets (Repealed by 1283)
710 Park dedication (Special)
711 Amends §§ 11.46.090 and 11.46.100, traffic regulations on certain streets (Repealed by 1283)
712 Tax levy (Special)
713 Adds § 16.24.030, building permits (Repealed by 1079)
714 Fund transfer (Special)
715 LID 55 bonds (Special)
716 Street vacation (Special)
717 Amends § 11.46.010; adds §§ 11.46.050, 11.46.060 and 11.46.070, traffic regulations on certain streets (11.46)
718 Repeals Ord. 689; amends §§ 2.50.100 and 2.50.120, salaries (Repealed by 769)
719 1971 Budget (Special)
720 Amends §§ 14.12.020 and 14.12.030, water and sewers rates (Repealed by 1434)
721 Adds Ch. 3.52, use assessments on lands (3.52)
722 Warrant issuance (Special)
723 Amends § 20.20.110, subdivisions (Not codified)
724 Adds Ch. 11.62, logging truck route (Repealed by 767)
725 Adds Ch. 14.28, water and sewer connection changes (Repealed by 1434)
726 (Not passed)
727 Adds § 11 to Ord. 700, street improvements (12.02)
728 Adds § 7.08.035; amends § 7.08.110, garbage collection (7.08)
729 Repeals Ch. 16.04, building code (Repealer)
730 Replaces Ch. 16.04, building code (Repealed by 852)
731 Adds Ch. 16.28, mechanical code (16.28)
732 Amends § 16.08.010; adds § 16.08.060 plumbing code (Repealed by 853)
733 Adds § 11.40.032, parking (Repealed by 1283)
734 Repeals Ord. 534 and § 6 of Ord. 402, subdivisions (Repealer)
735 Adds § 11.40.034 and Ch. 11.38, traffic (Repealed by 1283)
736 Adds Ch. 2.34, city administrator (2.34)
737 Adds Ch. 5.48, strawberry festival licensing (Repealed by 1278)
738 Parking (Repealed by 739)
739 Adds § 11.40.036, parking (Repealed by 1283)
740 Adds Ch. 11.68, traffic (Repealed by 940)
741 Adds § 7.08.066, garbage collection (Repealed by 1253)
742 Adds §§ 6.16.090, 6.16.100 and 6.16.110, dangerous drugs (Repealed by 965)
743 Replaces Ch. 6.08, disorderly conduct (Repealed by 965)
744 Amends § 11.04.010(a), traffic (Repealed by 940)
745 Annexation (Special)
746 Emergency appropriation (Special)
747 Amends § 16.08.030(b), plumbing (Repealed by 1077)
748 Special appropriation (Special)
749 Adds § 11.40.038, parking (Repealed by 1283)
750 Alley vacation (Special)

751 Street improvement contract with county (Special)
752 Annexation (Special)
753 Adds § 11.62.030, logging truck route (Repealed by 767)
754 Urban arterial fund warrant issuance (Special)
755 Adds §§ 2.76.030 – 2.76.110, golf course (Repealed by 1376)
756 Golf course purchase bond issuance (Special)
757 Emergency appropriation (Special)
758 Tax levy (Special)
759 Adds Ch. 2.76, golf course (Repealed by 1376)
760 Golf course annexation (Special)
761 Replaces Ch. 6.60, bird sanctuary (Repealed by 965)
762 Rezone (Special)
763 Amends § 11.40.038, parking (Repealed by 1283)
764 Amends Ord. 754, warrants (Special)
765 Adds § 11.62.040, logging truck routes (Repealed by 767)
766 Water and sewer work bonding (Special)
767 Replaces Ch. 11.62; repeals Ords. 724, 753 and 765, logging truck routes (Repealed by 1039)
768 Adopts 1972 budget (Special)
769 Replaces §§ 2.50.100 and 2.50.120; repeals Ord. 718, salaries (Repealed by 784)
770 Code of ethics (2.80)
771 Stop sign erection and removal at certain intersections (Special)
772 Zoning (Repealed by 2131)
773 Repeals §§ 3 and 5 of Ord. 76, §§ 1 and 5 of Ord. 517, § 7 of Ord. 506, §§ 7 and 9 of Ord. 501, §§ 5, 6, 7and 8 of Ord. 516 and § 19 of Ord. 524 (Repealer)
774 Motor vehicles carrying chips, shavings, sawdust or hog fuel (Repealed by 1989)
775 Parking (Repealed by 1283)
776 Fund for municipal purposes (Special)
777 Moratorium on capital improvement and trunk sewer connection charges (Special)
778 Dangerous drugs; repeals § 1 of Ord. 742 (Repealed by 965)
779 Tax levy (Special)
780 Repeals § 5 of Ord. 725, sewer connection (Repealer)
781 Cumulative reserve fund for construction, alteration, maintenance and repair of city buildings (Repealed by 1307)
782 Adopts 1973 budget (Special)
783 Repeals § 1 of Ord. 577, utilities tax (Repealer)
784 Salaries; repeals Ord. 769 (Repealed by 810)
785 Loan to utility construction fund (Special)
786 Amends § 2 of Ord. 725, sewer hook-up charge (Repealed by 1434)
787 Annexation (Special)
788 Water supply cross-connections (14.10)
789 Shoreline development permits (18.16)
790 Library management; repeals Ord. 390 (2.08)
791 Designates fire zones, adopts 1970 Uniform Building Code and repeals §§ 1 and 2 of Ord. 465 (Repealed by 1082)
792 Water system regulations; repeals § 1(6) of Ord. 720 and § 2 of Ord. 476 (Repealed by 1434)
793 Sewer system regulations (Repealed by 1434)
794 Creates local improvement district (Special)
795 LID indebtedness assumption (Special)
796 Amends § 2 of Ord. 494, district boundaries (Special)
797 Creates local improvement district (Special)
798 Sewer code regulations (Repealed by 1434)
799 Garbage fund expenditure increase (Special)
800 Appropriation decrease (Special)
801 Garbage and refuse fund loan (Special)
802 Golf course revenue fund increase (Special)
803 Application of zoning ordinance (Special)
804 Amends § 4.02(g) of Ord. 772, zoning (Repealed by 2131)
805 Tax levy (Special)
806 Speed limits on State Avenue (Repealed by 1310)
807 Adopts Uniform Litter Control Code (Repealed by 1597)
808 Amends § 2.80.040 and adds § 2.80.045, code of ethics (2.80)
809 Adopts 1974 budget (Special)
810 Repeals and replaces Ord. 784, salaries (Repealed by 840)
811 City council compensation and meetings; repeals § 1 of Ord. 77 and § 3 of Ord. 598 (2.04)
812 Sick leave; repeals subsection B of Ord. 681 (Repealed by 1368)
813 Vacation leave; repeals subsection A of Ord. 681 (Repealed by 1368)
814 Creates LID No. 58 (Special)
815 Fund appropriation (Special)
816 Eliminates capital improvement charge on ULID's and LID's (Special)
817 Annexation (Special)
818 Local improvements, special assessments and bonds (3.60)
819 Consolidated utility local improvement districts and warrants (Special)
820 Waterworks and sewerage improvement (Special)
821 Creates LID No. 59 (Special)
822 Commitment to enact ordinances necessary to carry out flood insurance programs (Not codified)
823 Duties of city officials regarding flood hazard areas (Repealed by 959)
824 Amends § 3 of Ord. 820, increasing principal sum of water and sewer revenue bonds (Special)
825 Performance of duties during absence of city clerk and city treasurer (Repealed by 1181)
826 Void
827 Fund appropriation (Special)
828 Tax levy (Special)
829 Amends § 6.08.200 and § 6.20.050, prohibited gambling practices and levies gambling activities tax (3.92)

830 Adds § 6.56.100, public exposure of female breasts and lower torso (Repealed by 965)
831 Repeals § 1, 2, 3, 4, 5, 6, 7, 8 and 9 of Ord. 307, pinball and skill games (Repealer)
832 Amends §§ 3 and 5 of Ord. 458, impound fees and authorization to destroy unclaimed animals (Repealed by 2013)
833 Confirms L.I.D. No. 58 (Special)
834 Creates L.I.D. No. 60 (Special)
835 Amends § 2 of Ord. 480, §§ 2 and 6 of Ord. 624, appointment and qualifications of police and firemen's civil service commission (2.16)
836 Amends § 2.04.010 regular meetings of council (2.04)
837 1975 budget (Special)
838 Rezone (Special)
839 Repeals § 7 of Ord. 829 and amends § 6 of Ord. 829, gambling activities tax (3.92)
840 Salaries; repeals Ord. 810 (Repealed by 1363)
841 Adds subsections 3, 4 and 5 to § 2 of Ord. 759, annual greens fees (Repealed by 1376)
842 Amends § 1 of Ord. 840, salaries (Repealed by 888)
843 Provides for waterworks improvements (Special)
844 Rezone (Special)
845 Amends § 5.48.010, vending license for strawberry festival (Repealed by 1278)
846 Adds § 19.08.037 and amends § 19.16.010, zoning (Repealed by 2131)
847 Amends § 19.16.010, zoning (Repealed by 2131)
848 Adopts American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped (16.36)
849 Adopts 1973 Uniform Mechanical Code; repeals § 4 of Ord. 731 (16.28)
850 Adopts 1973 Uniform Fire Code; repeals Ords. 352, 417 and 561 (9.04)
851 Amends §§ 4 and 6(a) of Ord. 829, tax on punchboards and pull tabs (3.92)
852 Adopts 1973 Uniform Building Code; repeals Ord. 730 (16.04)
853 Adopts 1973 Uniform Plumbing Code; repeals Ord. 732 (16.08)
854 Annexation (Special)
855 Rezone (Special)
856 Adds § 19.08.157 and amends § 19.16.010, zoning (Repealed by 2131)
857 Annexation (Special)
858 Annexation (Special)
859 Approves implementation of shoreline management master program; repeals § 1 of Ord. 789 (18.16)
860 Repeals and reenacts Ord. 647, wrecked or abandoned vehicles (Repealed by 1129)
861 Approves and confirms assessment for ULID No. 1 (Special)
862 Approves and confirms assessment for ULID No. 1 (Special)
863 Approves and confirms assessment for ULID No. 3 (Special)
864 Approves and confirms assessment for ULID No. 4 (Special)
865 Amends Ord. 797, ULID No. 2 (Special)
866 Annexation (Special)
867 Rezone (Special)
868 Amends §§ 19.44.060(a) and 19.44.080(c), zoning (Repealed by 2131)
869 Amends § 19.56.050, zoning (Repealed by 2131)
870 Amends 1975 budget (Special)
871 Amends § 19.16.010, zoning (Repealed by 2131)
872 Establishes position of animal control warden (Repealed by 1606)
873 Provides for issuance of water and sewer revenue bond (Special)
874 Levies taxes (Special)
875 Amends Ord. 834, 1975 budget (Special)
876 Supplements § 7.08.110, garbage collection rates (7.08)
877 Rezone (Special)
878 Rezone (Special)
879 Rezone (Special)
880 Amends § 2.76.020, golf courses (Repealed by 1376)
881 Amends § 1.04.020, official newspaper (1.04)
882 Imposes utilities tax (3.64)
883 Adopts 1976 budget (Special)
884 Amends Ord. 883, 1976 budget (Special)
885 Changes day of city council meetings (2.04)
886 Amends § 2.50.150, holidays (Repealed by 1368)
887 Amends § 1.02 of water and sewer system code (Repealed by 1434)
888 Compensation; repeals Ord. 842 (Repealed by 1368)
889 Amends § 2.50.142, sick leave (Repealed by 1368)
890 Repeals §§ 16.28.010 and 16.28.020 (Repealer)
891 Rezone (Special)
892 Leasehold excise tax (3.68)
893 Closing-out sales and special sales (5.52)
894 Adds Chapter 14.17, private stormwater disposal system (Repealed by 2245)
895 Amends §§ 14.04.100(A)(2), 14.04.100(B)(2) and 14.28.010, water installation fees (Repealed by 1434)
896 Amends § 14.28.030, sewer charge (Repealed by 1434)
897 Amends §§ 14.04.210(A) and 14.28.020, sewer connection charges (Repealed by 1434)
898 Rezone (Special)
899 Adds to Chapter 12.02, curbs, gutters and sidewalks required (Repealed by 1632)
900 Adds § 19.20.020, setback lines; repeals Ord. 557 and § 2 of Ord. 558 (Repealed by 2131)
901 Amends § 6.08.010, alcoholic liquor (Repealed by 965)
902 Transfer of funds (Special)
903 Amends § 2.50.050, council salaries; repeals § 2.50.060 (Repealed by 1368)
904 Adds to Chapter 19.08; amends § 19.08.100; commercial use (Repealed by 2131)

905 Adds to Ch. 12.24, liability of property owner (12.24)
906 Amends § 3.60.020(b)(1), local improvement districts (3.60)
907 Amends § 2.50.150, employee holidays (Repealed by 1363)
908 SEPA model ordinance (Repealed by 1533)
909 Classification of city (1.12)
910 1977 tax levy (Special)
911 City treasurer (Repealed by 1180)
912 Street department code variances; repeals § 12.02.110 (12.02)
913 Transfers funds (Special)
914 1977 budget adopted (Special)
915 Fund appropriation (Special)
916 Amends §§ 2.30.020 and 2.30.030, city clerk (Repealed by 1181)
917 (Pending)
918 Payroll fund, claims fund, petty cash fund (3.49, 3.50, 3.51)
919 Amends § 2.50.040, mayor's salary (Repealed by 1368)
920 Amends § 2.50.050, council salaries (Repealed by 1368)
921 Repeals §§ 2.50.080, 2.50.100 and 2.50.110 (Repealer)
922 Amends 1977 budget (Special)
923 Rezone (Special)
924 Amends 1977 budget (Special)
925 Bond issue (Special)
926 Amends § 14.12.020, sewer rates (Repealed by 1434)
927 Amends § 14.12.030(C), (E), (F), (G) and (H), sewer rates (Repealed by 1434)
928 Amends §§ 7.08.020, 7.08.035(a), (b) and (c), 7.08.060, 7.08.067, 7.08.070 and 7.08.110, garbage collection (7.08)
929 Board of ethics; repeals § 2.80.060 (2.80)
930 Repeals Chs. 2.64, 2.68 and 2.72 (Repealer)
931 Zones certain property (Special)
932 Rezone (Special)
933 Rezone (Special)
934 Franchise (Special)
935 Annexation (Special)
936 Utility local improvement district (Special)
937 Rezone (Special)
938 Amends 1977 budget (Special)
939 Amends subsections (a) and (b) of § 2.08.030, library board; repeals §§ 2.08.040 and 2.08.050 (2.08)
940 Adopts Washington Model Traffic Ordinance and other statutes regulating traffic; amends §§ 11.24.020, speed limits, 11.62.010, logging truck routes and 11.64.010, penalty for violation; repeals Chs. 6.96, 11.04, 11.08, 11.20, 11.28, 11.38 and 11.68, and 11.40.032(c), 11.40.034(b), 11.40.038(b), 11.40.050, 11.40.055, 11.40.070, 11.46.010, 11.62.050, 11.72.020 and 11.76.030 (11.24)
941 Repeals §§ 11.46.060 and 11.46.070 (Repealer)
942 Amends § 6.76.040, sound trucks (Repealed by 1419)
943 Rezone (Special)
944 Zones certain property (Special)
945 Zones certain property (Special)
946 Zones certain property (Special)
947 Amends 1977 budget (Special)
948 Vacation of streets and alleys (12.32)
949 Amends 1977 budget (Special)
950 Water use restrictions; repeals § 14.08.010 (14.08)
951 Condemnation of certain property (Special)
952 Rezone (Special)
953 Correction of erroneously zoned property (Special)
954 Correction of erroneously zoned property (Special)
955 Amends § 2.48.010, civilian auxiliary police force (Repealed by 1606)
956 1978 tax levy (Special)
957 Zones certain property (Special)
958 Zones certain property (Special)
959 Construction in flood hazard areas; repeals §§ 16.32.010, 16.32.020 and 16.32.030 (Repealed by 1339)
960 Rezone (Special)
961 Amends § 2.04.010, city council meetings (2.04)
962 Utility local improvement district (Special)
963 Amends § 2.34.010, city administrator (2.34)
964 Adds section to Ch. 5.04, gambling tax exemption (3.92)
965 Criminal code; repeals Chs. 6.04, 6.08, 6.12, 6.16, 6.20, 6.24, 6.28, 6.32, 6.36, 6.40, 6.44, 6.48, 6.52, 6.56, 6.60, 6.64, 6.68, 6.80, 6.84, 6.88, 6.94 and 6.96 (6.03, 6.06, 6.09, 6.12, 6.15, 6.18, 6.24, 6.27, 6.30, 6.33, 6.36, 6.39, 6.42, 6.45, 6.48, 6.51, 6.54, 6.60)
966 Adds section to Ch. 2.30, oath and bond of city clerk (Repealed by 1181)
967 Bond issue (Special)
968 Zones certain property (Special)
969 Correction of erroneously zoned property (Special)
970 Sewer rates for mobile home parks; amends § 14.12.030(E)(2), water bill for mobile home parks (Repealed by 1434)
971 Legal actions against city officials and employees (2.84)
972 Bond issue (Special)
973 Adopts 1978 budget (Special)
974 Rezone (Special)
975 Street vacation (Special)
976 Vacation (Special)
977 Amends § 19.16.010, zoning (Repealed by 2131)
978 Amends § 14.02(k) of Ord. 965, public disturbance (6.54)
979 Amends Ord. 973, 1978 budget (Special)
980 Revises 1978 budget (Special)
981 Amends § 14.04.230, dumping septic tank effluent (Repealed by 1434)

982 Waterworks extension provisions (Special)
983 Amends Ord. 973, 1978 budget (Special)
984 Amends § 2.04.020, council meetings (2.04)
985 Amends § 9.20.050, fireworks licenses (Repealed by 1376)
986 Adds Ch. 11.46, left turns (Repealed by 1989)
987 Amends § 11.40.039, parking (Repealed by 1283)
988 Amends (b) of § 9.20.080, fireworks licenses (9.20)
989 Creates LID No. 7 (Special)
990 Amends §§ 19.16.010 and 19.20.010, zoning (Repealed by 2131)
991 Designates Rainier National Bank to act as fiscal and cremation agent for city (Special)
992 Regulation, use and installation of burglar alarm systems (6.79)
993 Amends Ord. 973, 1978 budget (Special)
994 Establishes advisory commission on the arts (Repealed by 1481)
995 Amends Ord. 772, zoning map (Special)
996 Amends Ord. 772, zoning map (Special)
997 Amends Ord. 772, zoning map (Special)
998 Amends Ord. 772, zoning map (Special)
999 Adds material concerning sight-obstructing vegetation (12.36)
1000 Community impact study of certain businesses (Repealed by 1212)
1001 Annexation (Special)
1002 Revises 1977 budget (Special)
1003 Tax levy for 1979 (Special)
1004 Adds material to Ch. 5.02, business occupancy permits (Repealed by 1498)
1005 Rezone (Special)
1006 Amends § 19.16.010, zoning (Repealed by 2131)
1007 Rezone (Special)
1008 Adds new chapter to Title 10; repeals §§ 10.20.120 and 10.20.130, cruelty to animals (Repealed by 2013)
1009 Adds material to § 19.16.020, zoning (Repealed by 1093, 1126)
1010 Adds new section to Ch. 19.20, zoning (Repealed by 2131)
1011 Amends § 19.20.010, zoning (Repealed by 2131)
1012 Revises 1978 budget (Special)
1013 Creates equipment rental fund (Repealed by 1345)
1013A Adopts 1979 budget (Special)
1014 Amends § 2.50.070, mileage allowance for city personnel (Repealed by 1368)
1015 Amends § 14.14.050, sewer facilities (Repealed by 1242)
1016 Authorizes segregations of local improvement district assessments (3.60)
1017 Creates municipal arts fund (3.76)
1018 Adds new section to Ch. 12.02, minimum access requirements for land development (12.02)
1019 Rezone (Special)
1020 Rezone (Special)
1021 Rezone (Special)
1022 Adds material to §§ 19.16.010 and 19.20.010; amends § 19.16.010 zoning (Repealed by 2131)
1023 Adds material to Ch. 11.46, closes designated street (11.46)
1024 Rezone (Special)
1025 Rezone (Special)
1026 Rezone (Special)
1027 Budget revisions for 1979 (Special)
1028 Budget revisions for 1979 (Special)
1029 Rezone (Special)
1030 Annexation of territory (Special)
1031 Adds new section to Ch. 19.20, zoning (Repealed by 2131)
1032 Adds new section to Ch. 11.46, one-way alleys (11.46)
1033 Rezone (Special)
1034 Rezone (Special)
1035 Rezone (Special)
1036 Rezone (Special)
1037 Amends § 14.04.180, sewer system (Repealed by 1434)
1038 Adds new section to Ch. 14.04, water connections (Repealed by 1141)
1039 Truck routes, repeals §§ 11.62.010 – 11.62.040 (11.62)
1040 Rezone (Special)
1041 Rezone (Special)
1042 Adds paragraph to § 19.16.010 (Repealed by 2131)
1043 Repeals § 14.14.190, sewer system capital improvement charges (Repealer)
1044 Adds new section to Ch. 10.20 and to Ch. 19.08; amends §§ 19.08.260 and 19.16.010, dog kennels (Repealed by 2131)
1045 Amends § 19.56.050(c), zoning amendments (Repealed by 2131)
1046 Adds § 19.56.055 and amends § 19.44.050, zoning (Repealed by 2131)
1047 Amends § 3 of Ord. 1018, minimum access requirements (12.02)
1048 Repeals and adds paragraphs on office buildings and amends Table in § 19.16.010, zoning for professional offices and clinics (Repealed by 2131)
1049 Amends § 2.76.020, golf course greens fees (Repealed by 1058)
1050 Rezone (Special)
1051 Adds two new sections to Ch. 10.20 and one section to Ch. 10.24; amends §§ 10.20.050 and 10.20.110, animal control (Repealed by 2013)
1052 Amends Ord. 1032, direction of travel in alleys (11.46)
1053 Amends § 11.40.039(3); repeals §§ 11.46.020, 11.46.040 and 11.46.080, parking (Repealed by 1283)
1054 Amends § 19.16.010, petroleum products storage area zoning (Repealed by 2131)
1055 Rezone (Special)
1056 Rezone (Special)
1057 Adds language to § 7.08.110, garbage collection charge (7.08)

1058 Amends § 2.76.020, golf course greens fees; repeals Ord. 1049 (Repealed by 1376)
1059 Adds new section to Ch. 11.40, parking on Grove Street (Repealed by 1283)
1060 Adds new section to Ch. 6.24, utility poles (Repealed by 2046)
1061 Amends § 14.04.072(A)(l)(e), (h) and (A)(5), fire hydrant installation (Repealed by 1434)
1062 LID No. 5 assessment confirmed (Special)
1063 Adds language to § 19.16.010, day nursery zoning (Repealed by 2131)
1064 (Number voided)
1065 Public land dedication requirements for developers (Repealed by 1132)
1066 Creates parks, recreation and open space fund; repeals §§ 3.12.010 and 3.12.020 (3.12)
1067 LID No. 6 assessment confirmed (Special)
1068 Adopts revised sewer service area boundary (Special)
1069 Rezone (Special)
1070 Public works director office created; repeals §§ 2.32.010 – 2.32.040 and Ord. 496 (2.32)
1071 Amends §§ 14.04.090 and 14.04.170, recovery contracts (Repealed by 1434)
1072 Tax levy for 1980 (Special)
1073 Budget revisions for 1980 (Special)
1074 Amends § 2.50.040, mayor's compensation (Repealed by 1368)
1075 Amends § 2.50.050, city council compensation (Repealed by 1368)
1076 Amends §§ 16.04.010, 16.04.030, 16.04.060, 16.04.070, 16.04.090, 16.04.150 and 16.04.160; repeals § 16.04.110, Uniform Building Code (16.04)
1077 Amends §§ 16.08.010, 16.08.120, 16.08.140; repeals §§ 16.08.020 – 16.08.050, 16.08.090 and 16.08.180, Uniform Plumbing Code (16.08)
1078 Repeals Ch. 16.12, moving houses and buildings (Repealer)
1079 Repeals Ch. 16.24, multiple dwelling and commercial building permits (Repealer)
1080 Amends §§ 16.28.010 and 16.28.020, Uniform Mechanical Code (16.28)
1081 Amends §§ 16.36.010 and 16.36.020, building specifications for the handicapped (16.36)
1082 Amends §§ 9.04.010, 9.04.040, 9.04.050, 9.04.060 and 9.04.090; repeals §§ 9.04.070 – 9.04.090, Uniform Fire Code; repeals Ch. 19.12, fire zones (9.04)
1083 Adds new section to Ch. 11.40, parking (Repealed by 1283)
1084 Adds five sections to Ch. 11.04, driving while intoxicated (Repealed by 1160)
1085 Water and sewer utility tax established (3.66)
1086 Amends § 3 of Ord. 1062, LID No. 5 (Special)
1087 Amends § 3 of Ord. 1067, LID No. 6 (Special)
1088 1979 water and sewer revenue bond issue (Special)
1089 Police court and police judge; repeals Ch. 2.24, police justice (Repealed by 1420)
1090 1980 budget revisions (Special)
1091 Waterworks utility system improvements (Special)
1092 Annexation (Special)
1093 Sets out language for §§ 19.16.020, 19.16.030, 19.16.040 and 19.16.050, multiple-family residential zones; repeals former § 19.16.020 (Repealed by 2131)
1094 Repeals Ch. 3.04, tax on the sale of electricity (Repealer)
1095 Amends § 19.16.010, light industrial zoning district (Repealed by 2131)
1096 Amends § 19.16.010, zoning uses (Repealed by 2131)
1097 Amends § 19.56.050(b)(2), application fee for rezones (Repealed by 2131)
1098 Amends § 12.02.110(d), street variances (12.02)
1099 Amends § 19.44.060, zoning board of adjustment (Repealed by 2131)
1100 Amends §§ 18.16.070 and 18.16.100, shoreline management permits (18.16)
1101 Amends § 12.02.170, curbs and sidewalks (Repealed by 1632)
1102 Adds three sections to Ch. 16.20; amends §§ 16.20.020(3), (5); repeals §§ 16.20.040(5), last paragraph of 16.20.060, and 16.20.070, dangerous buildings (16.20)
1103 Adds section to Ch. 14.04 and amends § 14.14.050; repeals § 14.24.020, water and sewer service (Repealed by 1242)
1104 1980 budget revisions (Special)
1105 Annexation (Special)
1106 Rezone (Special)
1107 Amends portion of Ch. 14.04 and amends § 14.14.050 water and sewer service (Repealed by 1242)
1108 Utility tax rebate for low-income senior citizens (3.64)
1109 Pawnbrokers and secondhand dealers (5.64)
1110 Amends §§ 12.02.080 and 20.16.150, standard street sections (12.02)
1111 Adds §§ 14.28.040 and 14.28.050, water and sewer connections (Repealed by 1434)
1112 Amends § 20.16.180, subdivisions (Not codified)
1113 Revises 1979 budget (Special)
1114 LID No. 8 created (Special)
1115 Adds chapter to Title 20; repeals § 20.20.110(2), subdivisions (Not codified)
1116 Amends § 14.04.230(3), septic tank effluent dumping (Repealed by 1434)
1117 Amends § 20.16.120, subdivisions (Not codified)
1118 Amends § 14.28.020, sewer hookup (Repealed by 1434)
1119 Rezone (Special)
1120 Amends § 14.04.050, delinquent water and sewer bills (Repealed by 1434)
1121 Adds section to Ch. 19.20, zoning (Repealed by 2131)
1122 Amends § 19.20.010, zoning (Repealed by 2131)

1123 Amends §§ 18.16.070, 18.16.090, 18.16.100 and 18.16.250, shoreline management master program (18.16)
1124 Amends paragraphs on RML and RMH districts in § 19.16.010, zoning (Repealed by 2131)
1125 Amends four items in chart accompanying § 19.20.010, zoning (Repealed by 2131)
1126 Adds paragraph to Ord. 1093, repeals former § 19.16.020 (Repealer)
1127 Adds section to Ch. 1.01, municipal legislation (1.01)
1128 Contributing to delinquency of minors; repeals §§ 6.57.010, 6.57.020 and 6.57.030 (Repealed by 1664)
1129 Abandoned vehicles; repeals §§ 6.92.010, 6.92.020, 6.92.030, 6.92.040, 6.92.050, 6.92.060, 6.92.070, 6.92.080, 6.92.090, 6.92.100, 6.92.110, 6.92.120, 6.92.130, 6.92.140, 6.92.150, 6.92.160, 6.92.170 and 6.92.180 (Repealed by 1161)
1130 Adds section to Ch. 18.20, residential development (Repealed by 1251)
1131 Rezone (Special)
1132 Excise tax on residential development; repeals Ord. 1065 (Repealed by 1251)
1133 Adds §§ 20.16.145 and 20.16.200, subdivisions (Not codified)
1134 Amends §§ 1, 2 and 3 of Ord. 1066, growth management fund (3.12)
1135 Amends §§ 5.04.020 and 5.04.030, tax on bingo, punchboards and pull tabs (3.92)
1136 Amends § 14.20.010, utility department (Repealed by 1434)
1137 Amends § 11.40.034, angle parking (Repealed by 1283)
1138 Adds section to Ch. 11.40, alley parking; repeals § 11.40.060 (Repealed by 1600)
1139 Drug paraphernalia (Repealed by 1993)
1140 Adds sections to Ch. 7.08; amends §§ 7.08.020, 7.08.040, 7.08.060, 7.08.100 and 7.08.110; repeals §§ 7.08.035, 7.08.066(b), 7.08.120 and 7.08.140, garbage collection (7.08)
1141 Repeals §§ 14.04.055, 14.04.110, 14.04.120, 14.04.190 and 14.24.030 (Repealer)
1142 Amends § 14.04.040, damage to water and sewer system (Repealed by 1434)
1143 Repeals and replaces Ch. 5.24, for-hire vehicles (5.24)
1144 Tax levy for 1981 (Special)
1145 Amends § 7.08.060, garbage collection (7.08)
1146 LID No. 7 assessment roll confirmed (Special)
1147 Adds section to Ch. 5.04; amends §§ 5.04.020 and 5.04.025, gambling activities tax (3.92)
1148 Adds § 12.02.125, street department (12.02)
1149 Adds section to Ch. 14.04 and 14.14, water and sewers (Repealed by 1242)
1150 Amends § 20.16.190, subdivisions (Repealed by 1986)
1151 Annexation (Special)
1152 Rezone (Special)
1153 Rezone (Special)
1154 LID No. 8 assessment roll confirmed (Special)
1155 Bond issuance (Special)
1156 LID No. 7 final assessment roll (Special)
1157 Adds section to Ch. 19.36, off-street parking (Repealed by 2131)
1158 Amends 1981 budget (Special)
1159 Amends § 2.24.090(a), police court and police judge (Repealed by 1420)
1160 Repeals §§ 11.04.040, 11.04.070, 11.04.080, 11.04.090, 11.04.100, 11.04.110, traffic (Repealer)
1161 Repeals § 1 of Ord. 1129, wrecked or abandoned vehicles (Repealer)
1162 Alley vacation (Special)
1163 Amends §§ 14.12.020 and 14.12.030, water and sewer rates (Repealed by 1434)
1164 Amends § 2.76.020, municipal golf course (Repealed by 1376)
1165 Alley vacation (Void)
1166 1980 budget revision (Special)
1167 Amends § 14.04.100, combined water and sewer system (Repealed by 1434)
1168 Adds § 14.04.153; amends § 14.04.152, combined water and sewer system (Repealed by 1434)
1169 Rezone (Special)
1170 Amends § 12.32.050, right-of-way appraisal (12.32)
1171 Amends §§ 14.04.090 and 14.04.170, recovery con tracts (Repealed by 1434)
1172 Amends § 14.28.010, water service; repeals § 14.12.040 and Ch. 14.24 (Repealed by 1434)
1173 Amends § 14.04.071, water and sewer service (Repealed by 1434)
1174 Zones annexed land (Special)
1175 Amends § 19.16.010, zoning (Repealed by 2131)
1176 1980 budget revision (Special)
1177 Amends § 7.08.110, garbage collection (7.08)
1178 Adds § 19.16.020, zoning (Repealed by 2131)
1179 Amends § 12.02.170, street improvements (Repealed by 1632)
1180 Finance director; repeals Ch. 2.35 (2.35)
1181 City clerk; repeals Ch. 2.30 (2.30)
1182 Adds §§ 9.04.071, 9.04.072, 9.04.073, 9.04.074 and 9.04.075, Uniform Fire Code (Repealed by 1947)
1183 Amends §§ 19.44.080(c) and 19.56.050(c)(3), zoning, and § 20.16.120(a)(3), subdivisions (Repealed by 2131)
1184 Rezone (Special)
1185 Amends § 19.16.010, zoning (Repealed by 2131)
1186 Amends §§ 7.08.010 and 7.08.030, garbage collection (7.08)
1187 Adds §§ 16.16.050, 16.16.255 and 16.16.290, sign code; amends §§ 19.08.040, 19.08.445, 19.16.010 and 19.20.010, zoning; repeals § 16.16.030 (Repealed by 2131)
1188 Garbage collection franchise (Special)
1189 Adds section to Ch. 16.28, solid fuel burning appliances (16.28)
1190 Annexation (Special)

1191 Annexation (Special)
1192 Annexation (Special)
1193 Adds § 14.04.062; amends §§ 14.04.155 and 14.14.060, water and sewer service; repeals § 14.04.158 (Repealed by 1434)
1194 Adds section to Ch. 19.16, zoning (Repealed by 2131)
1195 Amends § 19.12.050(e), zoning (Repealed by 2131)
1196 1981 budget revision (Special)
1197 Adds §§ 18.16.155 and 18.16.255, and amends §§ 18.16.220 and 18.16.260, shoreline management (18.16)
1198 1981 budget revision (Special)
1199 Zones annexed land (Special)
1200 Amends § 19.16.010, zoning (Repealed by 2131)
1201 Repeals and adds Ch. 5.16, auctions (Repealed by 1389)
1202 Amends § 3.66.020, water and sewer utility tax (3.66)
1203 Rezone (Special)
1204 Rezone (Special)
1205 Tax levy for 1982 (Special)
1206 Franchise grant to Washington Natural Gas Co., gas distribution system (Special)
1207 LID No. 61 established, sewer improvements (Special)
1208 Annexation of property (Special)
1209 Amends § 3.64.020, utility tax on telephone services (3.64)
1210 Amends 1981 budget appropriations (Special)
1211 Repeals and adds § 19.56.040, zoning (Repealed by 2131)
1212 Repeals §§ 5.56.010 – 5.56.050 and adds §§ 5.56.010 – 5.56.060, community impact of certain adult businesses (Repealed by 1457)
1213 Budget for 1982 (Special)
1214 Amends § 3.64.020(a), utility tax on telephone services (3.64)
1215 Zones certain property (Special)
1216 Adds §§ 14.04.085 and 14.04.165, oversize water and sewer mains (Repealed by 1434)
1217 Adds new section to Ch. 11.04, operating vehicle in an inattentive manner (Repealed by 1306)
1218 Amends subsections (a)(3) and (a)(5) of § 2.24.090, court costs (Repealed by 1228)
1219 Amends 1981 budget appropriations (Special)
1220 Amends § 14.28.010(a), water service installation fees (Repealed by 1434)
1221 Repeals and adds § 6.03.040; amends §§ 6.03.050 and 6.03.070, court costs and disposition of criminal cases (6.03)
1222 Amends 1981 budget appropriations (Special)
1223 Annexation (Special)
1224 Amends §§ 2.20.010, 2.20.020 and 2.20.030, park commission (Repealed by 1369)
1225 Amends 1982 budget appropriations (Special)
1226 Adds § 14.04.062(c), water connections (Repealed by 1434)
1227 Amends § 3.60.090, local improvement district warrants (3.60)
1228 Amends § 2.24.090(a)(5); repeals § 2.24.090(a)(3) and Ord. 1218, court costs (Repealed by 1420)
1229 Amends § 6.15.010 and adds § 6.15.020, obstructing a public servant (6.15)
1230 Amends § 3.64.030, utility tax on gases (3.64)
1231 Adds section to Ch. 12.02, right-of-way dedication (12.02)
1232 Repeals and replaces Ch. 14.16, public storm drainage system code (Repealed by 2245)
1233 Adds Ch. 14.15, on-site stormwater drainage code (Repealed by 2245)
1234 Sales and use tax; repeals Ch. 5.44 (3.84)
1235 Fireworks; amends §§ 9.20.050 and 9.20.110; repeals §§ 9.20.010 through 9.20.040, 9.20.080 and 9.20.090 (9.20)
1236 Amends § 1.04.020, official newspaper (1.04)
1237 Amends §§ 16.16.255(d)(2), (d)(3), (d)(5) and (h), sign code (Repealed by 1609)
1238 Amends § 14.04.050, utility bills (Repealed by 1434)
1239 Adds § 14.04.055, utility bills (Repealed by 1434)
1240 Amends § 6.54.020(11), consumption of intoxicating beverages in public places (6.54)
1241 Amends §§ 2, 3, 4 and 6 of Ord. 1235, fireworks (9.20)
1242 Rural utility service area; repeals §§ 14.04.065, 14.04.066, 14.04.140, 14.04.145 and 14.04.153 (14.32)
1243 Aid car and ambulance service (Repealed by 1879)
1244 Real estate excise tax (3.88)
1245 Amends §§ 12.24.010 and 12.24.020, sidewalks (12.24)
1246 Repeals § 12.02.140, storm sewer connections (Repealer)
1247 Repeals Ch. 2.40, fire chief (Repealer)
1248 Repeals Ch. 2.36, street superintendent (Repealer)
1249 Adds Ch. 19.30, mobile/manufactured homes; amends § 19.16.010; repeals Ch. 5.28 and §§ 19.08.490 and 19.08.495 (Repealed by 2131)
1250 Amends 1982 budget (Special)
1251 Adds Ch. 18.24; amends §§ 3.12.020 and 3.12.030, mitigation assessments; repeals Ch. 3.80 and §§ 18.20.040 and 20.16.145 (3.12, 18.24)
1252 Amends 1982 budget (Special)
1253 Amends § 7.08.065, garbage collection; repeals § 7.08.066 (7.08)
1254 1983 tax levy (Special)
1255 Amends §§ 2.16.010 through 2.16.050, civil service commission; repeals § 2.16.060 and Ch. 2.46 (2.16)
1256 Amends §§ 20.24.010 and 20.24.030, subdivisions (Not codified)
1257 Adds § 14.04.056, water and sewer system (Repealed by 1434)

1258 Adds § 19.30.050(i); amends § 19.30.110(c), zoning (Repealed by 2131)
1259 Amends 1982 budget (Special)
1260 Amends § 12.02.125, street department code (12.02)
1261 Adds § 14.12.040, water and sewer rates (Repealed by 1434)
1262 1983 budget (Special)
1263 Amends § 3.64.040, utilities tax (3.64)
1264 Amends § 11.46.050, traffic regulations (11.46)
1265 Adds section to Ch. 11.40, parking (Repealed by 1356)
1266 Adds section to Ch. 6.24, public nuisances (Repealed by 2046)
1267 Amends § 14.32.060(d), rural utility service area (14.32)
1268 Establishes LID No. 62 (Special)
1269 Establishes ULID No. 9 (Special)
1270 Amends § 20.16.180(b), subdivisions (Not codified)
1271 Amends § 12.32.010, vacation of streets and alleys (12.32)
1272 Budget and expenditures (Special)
1273 Alley vacation (Special)
1274 Public records (1.16)
1275 Adds §§ 3.60.150 – 3.60.210 and amends §§ 3.60.010 and 3.60.020(b)(1), local improvement districts and delinquent assessments (3.60)
1276 Amends § 14.32.050(7), rural utility service area (14.32)
1277 Curb, gutter and sidewalk improvements (Special)
1278 Strawberry Festival permit procedure; repeals §§ 5.48.010, 5.48.020 and 5.48.030 (5.48)
1279 Rezone (Special)
1280 Adds § 11.40.085, amends § 11.40.032(b) and repeals § 11.40.070, parking restrictions (Repealed by 1283)
1281 Adds §§ 6.30.030 – 6.30.080, repeals and adds § 6.30.020, nudity and public exposure (6.30)
1282 Repeals and replaces Ch. 19.48, planned residential developments (Repealed by 2131)
1283 Repeals §§ 11.40.032, 11.40.034, 11.40.036, 11.40.037, 11.40.038, 11.40.039, 11.40.060, 11.40.080, 11.40.085, 11.40.090 and 11.40.100, parking restrictions (Repealer)
1284 Adds subsections (10) – (12) to § 6.28.010 and adds §§ 6.28.060 and 6.28.070; repeals and adds §§ 6.28.030 – 6.28.050; renumbers § 6.28.060 to be § 6.28.080, drug paraphernalia (Repealed by 1993)
1285 Confirms LID No. 61 assessments (Special)
1286 Amends § 6.45.010, fraud (6.45)
1287 Street vacation (Special)
1288 Amends § 18.20.020(14), SEPA guidelines (Repealed by 1533)
1289 (Vetoed)
1290 (Vetoed)
1291 (Vetoed)
1292 Installment note for LID No. 61 (Repealed by 1533)
1293 Amends portion of § 19.16.010, zoning (Repealed by 2131)
1294 Water and sewer improvements (Special)
1295 Amends § 3.49.010, payroll fund, and § 3.50.010, claims fund (3.49, 3.50)
1296 Adds § 18.24.045, planning of developments (18.24)
1297 Street vacation and transfer of title (Special)
1298 Adds §§ 18.04.040 – 18.04.070, repeals and replaces §§ 18.08.010 – 18.04.030, and repeals §§ 18.08.010, 18.08.020, 18.12.010 and 18.12.020, planning commission (18.04)
1299 Adds Ch. 18.08, comprehensive plan (18.08)
1300 Rezone (Special)
1301 Amends § 11.46.050(a), left turns (11.46)
1302 Amends § 19.08.197, zoning (Repealed by 2131)
1303 Bond issue for LID No. 62 (Special)
1304 Amends § 3 of Ord. 1269, bonds for ULID No. 9 (Special)
1305 1984 tax levy (Special)
1306 Repeals and replaces Ch. 11.04, model traffic ordinance (11.04)
1307 Adds new chapter to Title 3, general cumulative reserve fund; repeals Chs. 3.20, 3.22, 3.24, 3.28, 3.29, 3.31, 3.48 and 3.56; and sets out disposition of funds (3.18)
1308 Adds § 3.60.115 and amends § 3.60.110, local improvements, special assessments and bonds (3.60)
1309 Amends § 6.30.010, public indecency, prostitution and sex crimes (6.30)
1309A Rezone (Special)
1310 Adds new section to Ch. 11.04, speed limits, and repeals Ch. 11.76 (Repealed by 1749)
1311 Accepts gift to city (Special)
1312 Amends § 5.32.010, intoxicating liquor (5.32)
1313 Approves assessment roll (Special)
1314 Zones annexed land (Special)
1315 1984 budget (Special)
1316 Amends § 11.62.020, truck routes (11.62)
1317 1983 budget revisions (Special)
1318 1983 budget revisions (Special)
1319 Creates golf course operating fund and change fund (3.70)
1320 Adds new chapter to Title 3, drug buy fund (3.94)
1321 Amends § 3.51.010, petty cash fund (3.51)
1322 Amends § 7.08.110, garbage rate schedule (7.08)
1323 Adds to 1984 tax levy (Special)
1324 Amends § 10.24.020, leash law violations (Repealed by 2013)
1325 Adds § 10.20.120 and amends §§ 10.20.010, 10.20.030, 10.20.040, 10.20.050(a), 10.20.090 and 10.20.150, dogs and cats (Repealed by 2013)
1326 Amends § 10.08.010 and repeals § 10.08.020, pound keeper (Repealed by 2013)
1327 Repeals Ch. 10.12 (Repealer)
1328 Amends §§ 10.04.030, 10.04.050, 10.04.060, 10.04.110, 10.04.120 and Ch. 10.04 title and

repeals § 10.04.090, livestock at large (Repealed by 2013)
1329 Amends §§ 10.16.040 and 10.16.080, fowl and livestock keeping (Repealed by 2013)
1330 Rezone (Special)
1331 Amends § 5.48.020, Strawberry Festival proposals (5.48)
1332 1983 budget revision (Special)
1333 Amends subsections (f) and (g) of § 3.64.060, tax rebate (3.64)
1334 Repeals and replaces §§ 6.24.010, 6.24.020 and 6.24.040, public nuisances (6.24)
1335 Amends § 6.51.010, malicious mischief (6.51)
1336 Amends § 6.12.010, interference with official proceedings (6.12)
1337 Adds item to § 6.15.010, obstructing governmental operation (6.15)
1338 Amends § 3.64.060(g), tax rebate (3.64)
1339 Repeals and replaces Ch. 16.32, flood hazard areas (16.32)
1340 Adds §§ 16.16.050(t) and 16.16.259 and amends § 16.16.260, sign code (Repealed by 1609)
1341 Amends § 19.16.010, zoning (Repealed by 2131)
1342 Amends § 19.16.010, zoning (Repealed by 2131)
1343 Adds new chapter to Title 3, donations, devises and bequests (3.96)
1344 1983 budget revisions (Special)
1345 Repeals Ch. 3.72 and sets out disposition of funds (Repealer)
1346 Adds § 5.48.050, Strawberry Festival (5.48)
1347 Adds § 11.62.070, truck routes (11.62)
1348 Amends 1981 personnel classification plan (Special)
1349 Alley vacation (Special)
1350 Adds § 18.16.275, streamside protection zone (18.16)
1351 Factory-built housing (Repealed by 2131)
1352 Amends § 19.16.010, zoning (Repealed by 2131)
1353 Rezone (Special)
1354 Amends § 6.45.010, adopting state insurance fraud regulations (6.45)
1355 Repeals and replaces § 12.02.160, curb, gutter and sidewalk grades (12.02)
1356 Repeals § 11.40.110 (Repealer)
1357 Annexation (Special)
1358 Annexation (Special)
1359 Annexation (Special)
1360 LID No. 62 bonds (Special)
1361 Water and sewer revenue bonds (Special)
1362 Rezone (Repealed by 1723)
1363 Rezone (Special)
1364 Amends §§ 14.04.090, 14.04.170 and 14.16.130, water, sewers and storm drains (Repealed by 2245)
1365 1984 budget revisions (Special)
1366 Rezone (Special)
1368 Repeals and replaces Ch. 2.50, personnel code for city employees (2.50)
1369 Parks and recreation department; repeals Chs. 2.20 and 2.76 (2.20)
1370 Amends 1981 personnel classification plan (Special)
1371 (Failed)
1372 Amends §§ 16.08.010, 16.08.070, 16.08.100, 16.08.110 and 16.08.120; repeals §§ 16.08.140 through 16.08.170, Uniform Plumbing Code (16.08)
1373 Amends §§ 9.04.010, 9.04.040 and 9.04.071; repeals § 9.04.070, Uniform Fire Code (9.04)
1374 Amends §§ 16.28.010 and 16.28.035, Uniform Mechanical Code (16.28)
1375 Amends §§ 16.04.010, 16.04.030, 16.04.070, 16.04.080, 16.04.140 and 16.04.150; repeals §§ 16.04.050, 16.04.060, 16.04.120, 16.04.130 and 16.04.160, Uniform Building Code (16.04)
1376 Adopts state fireworks regulations; repeals §§ 9.20.010, 9.20.050 and 9.20.060 (9.20)
1377 Amends § 2.24.010 and adopts RCW Ch. 3.50, municipal courts (Repealed by 1420)
1378 1984 budget revisions (Special)
1379 1984 budget revisions (Special)
1380 Amends § 2.24.090, court costs (Repealed by 1420)
1381 Alley vacation (Special)
1382 Amends § 6.27.010, adopting state legend drugs regulations (6.27)
1383 Rezone (Special)
1384 Zones annexed property (Special)
1385 Adopts comprehensive plan and zoning for annexed property (Special)
1386 Zones annexed property (Special)
1387 Repeals and replaces Ch. 12.06, classification of streets (Repealed by 2292)
1388 Amends § 10.20.045, dogs and cats, and §§ 19.08.260 and 19.08.261, zoning (Repealed by 2131)
1389 Repeals Ch. 5.16 (Repealer)
1390 Amends § 2.04.010, council meetings (2.04)
1391 Amends §§ 2.50.040 and 2.50.050, personnel code (2.50)
1392 Zones annexed property (Special)
1393 Adds Ch. 6.56, domestic violence (6.56)
1394 1985 tax levy (Special)
1395 Assessments and assessment roll for ULID No. 9 (Special)
1396 (Not used)
1397 Declares Ord. 1165 to be void (Not codified)
1398 Assessments and assessment roll for LID No. 62 (Special)
1399 Amends § 6.30.010, sexual indecency (6.30)
1400 1984 budget revisions (Special)
1401 Rezone (Special)
1402 1984 budget revisions (Special)
1403 Water and sewer bonds (Special)
1404 Bond issue for LID No. 62 (Special)
1405 Bond registration (3.98)
1406 1985 budget (Special)
1407 1984 budget revisions (Special)
1408 Repeals § 3.70.020 (Repealer)
1409 Street vacation (Special)

1410 Amends § 11.04.010, traffic code (Repealed by 1989)
1411 Alley vacation (Special)
1412 1985 budget revisions (Special)
1413 Adds §§ 10.04.012 and 10.04.015; amends § 10.04.040, livestock (Repealed by 2013)
1414 Adds § 2.50.100, residency requirement (Repealed by 1950)
1415 1984 budget revisions (Special)
1416 Adds to § 6.45.010, fraud (6.45)
1417 Amends § 7.08.115(e) and (f), garbage collection (7.08)
1418 Rezone (Special)
1419 Noise regulations; repeals Ch. 6.76 (6.76)
1420 Repeals and replaces Ch. 2.24, municipal court and municipal court judge (2.24)
1421 Amends §§ 1.01.080, 6.03.120 and 11.04.090, code violations (1.01, 6.03, 11.04)
1422 Repeals Chs. 11.48, 11.52 and 11.64 (Repealer)
1423 1985 budget revision (Special)
1424 Alley vacation (Special)
1425 Water and sewer revenue bonds (Repealed by 1428)
1426 Rezone (Special)
1427 Rezone (Special)
1428 Water and sewer revenue bonds; repeals Ord. 1425
1429 Repeals § 11.46.120 (Not codified)
1430 Amends §§ 5.60.010 and 5.60.020, itinerant merchants; repeals § 5.60.030 (5.60)
1431 Amends § 14.32.060(d), rural utility service area variances (14.32)
1432 Repeals § 1.04.010 (Repealer)
1432A Rezone (Special)
1433 1986 tax levy (Special)
1434 Adds Chs. 14.01, 14.03, 14.05 and 14.07, water and sewers; repeals Chs. 14.04, 14.12, 14.14 and 14.28 (14.01, 14.03, 14.05, 14.07)
1435 Amends § 2.24.090(b), court costs (2.24)
1436 Repeals Ch. 1.08 (Repealer)
1437 Repeals and replaces § 1.12.020, elective city officers; repeals §§ 1.12.030 and 1.12.040 (1.12)
1438 Amends § 10.20.150, penalty for animal control violations (Repealed by 2013)
1439 Adds § 7.08.095, temporary discontinuance of garbage collection (7.08)
1440 Repeals and replaces Ch. 2.12, emergency services and disaster plan (2.12)
1441 Rezone (Special)
1442 Rezone (Special)
1443 1986 budget (Special)
1444 Water and sewer revenue bonds (Special)
1445 1985 budget revisions (Special)
1446 ULID No. 11 (Special)
1447 1986 budget revisions (Special)
1448 Adds Ch. 7.16, Washington Clean Indoor Air Act; repeals § 6.24.060 (7.16)
1449 Amends § 6.56.010, domestic violence (6.56)
1450 Adds Ch. 6.50, harassment (6.50)
1451 Amends § 6.42.010, theft (6.42)
1452 Amends § 12.32.060(c), street and alley vacation (12.32)
1453 Amends § 19.16.060(b), zoning (Repealed by 2131)
1454 Rezone (Special)
1455 Repeals and replaces Ch. 2.60; repeals §§ 2.44.010 – 2.44.040, fire department (Repealed by 1879)
1456 LID No. 10 establishment and improvements (Special)
1456A Adds Ch. 12.40, clean condition of public right-of-way (12.40)
1457 Adds to Ch. 19.08 and § 19.16.070; amends § 19.16.010; repeals § 5.02.032(5) and Ch. 5.56, adult-oriented entertainment facilities (Repealed by 2069)
1458 Rezone (Special)
1459 Amends Ord. 1444, sewer and revenue bonds (Special)
1460 Adds Ch. 16.10, energy code (Repealed by 1762)
1461 1986 budget revisions (Special)
1462 Adds Ch. 5.34, malt liquor by the keg (5.34)
1463 Adds Ch. 19.29, zoning (Repealed by 2094)
1464 Amends § 2.24.100, municipal court and judge (2.24)
1465 Adds Ch. 3.04, biennial budget (Repealed by 1618)
1466 Rezone (Special)
1467 Rezone (Special)
1468 Rezone (Special)
1469 Adds Ch. 5.68, cable communications franchises (Repealed by 2489)
1470 Cable television franchise; repeals Ord. 567 (Special)
1471 Amends § 3 of Ord. 1457, adult-oriented entertainment facilities (Repealed by 2069)
1472 Adds Ch. 5.72, massage businesses and practitioners (5.72)
1473 1986 budget revision (Special)
1474 Amends § 7.08.110, garbage collection (7.08)
1475 Amends §§ 16.04.010, 16.04.030 and 16.04.150; repeals §§ 16.04.070 – 16.04.100, building code (16.04)
1476 Amends §§ 16.08.010 and 16.08.120; repeals §§ 16.08.100, 16.08.110, 16.08.130, 16.08.190 and 16.08.200, plumbing code (16.08)
1477 Amends § 16.28.010; repeals § 16.28.030, mechanical code (16.28)
1478 Amends § 9.04.010, fire code (Repealed by 2378)
1479 Street vacation (Special)
1480 Adds subsections (e) and (f) to § 14.07.010, water and sewer fees (14.07)
1481 Repeals Ch. 2.88 (Repealer)
1482 Amends § 5.24.070, for-hire vehicles (5.24)
1483 1986 budget revisions (Special)
1484 Adds Ch. 19.31, recreational vehicle parks; repeals § 19.30.030(b) (Repealed by 2131)
1485 Amends 1986 budget (Special)
1486 Rezone (Special)

1487 Adds Ch. 11.36, abandoned vehicles (Repealed by 1593)
1488 Special election on bond issuance (Special)
1489 1987 tax levy (Special)
1490 Amends §§ 3.92.020 and 3.92.030, gambling tax (3.92)
1491 Rezone (Special)
1492 Amends (b) of and adds (g) to § 14.07.010, water and sewer charges (14.07)
1493 Amends § 19.16.010, zoning (Repealed by 2131)
1494 Adds definition to Ch. 19.08; amends § 19.16.010, zoning (Repealed by 2131)
1495 Amends 1986 budget (Special)
1496 Amends § 14.07.010(d), water sewer charges (14.07)
1497 Amends Ord. 1489, property tax levy (Special)
1498 Repeals and replaces Ch. 5.02, business licenses (5.02)
1499 Adopts 1987-1988 budget (Special)
1500 Amends § 2.50.040, compensation of mayor (2.50)
1501 Amends § 2.50.050, compensation of council members (2.50)
1502 Bond issuance (Special)
1503 Street and alley vacation (Special)
1504 Amends 1986 budget (Special)
1505 Amends § 7.08.060(c), garbage collection fees (7.08)
1506 Adds § 2.24.220, municipal court fees (2.24)
1507 Adds § 2.24.210, municipal court fees (2.24)
1508 Amends § 11.04.010, traffic code (Repealed by 1989)
1509 Adds (h) to § 14.07.010, water and sewer charges (14.07)
1510 Rezone (Special)
1511 Rezone (Special)
1512 Amends § 12.02.090, street department code (12.02)
1513 Rezone (Special)
1514 Amends 1987-1988 budget (Special)
1515 Amends 1987-1988 budget (Special)
1516 Adds Ch. 2.10, community television advisory committee (2.10)
1517 Amends 1987-1988 budget (Special)
1518 Amends § 5.20.050, public dances (Repealed by 1636)
1519 Amends § 19.36.090, zoning (Repealed by 2131)
1520 Amends § 12.02.170, requirements for construction of curbs, gutters and sidewalks during development of property (Repealed by 1632)
1521 Repeals Ch. 3.36 (Repealer)
1522 Repeals Ch. 3.44 (Repealer)
1523 Amends 1987-88 budget (Special)
1524 Amends § 19.20.010, zoning (Repealed by 2131)
1525 Amends § 19.16.010, zoning (Repealed by 2131)
1526 Amends § 19.08.525, zoning (Repealed by 2131)
1527 Amends 1987-88 budget (Special)
1528 Amends § 2.04.010, city council meetings (2.04)
1529 Amends § 14.08.020, water shortage use restrictions (14.08)
1530 Contractor's bond for construction of Public Safety Building (Special)
1531 Amends Ord. 1503, street and alley vacation (Special)
1532 Rezone (Special)
1533 Repeals and replaces Ch. 18.20, State Environmental Policy Act (Repealed by 2131)
1534 Amends § 10.28.020, cruelty to animals (Repealed by 1539)
1535 Rezone (Special)
1536 Annexation (Special)
1537 Annexation (Special)
1538 Annexation (Special)
1539 Adds § 10.28.045 and repeals Ord. 1534, cruelty to animals (Repealed by 2013)
1540 Annexation (Special)
1541 Rezone (Special)
1542 Amends §§ 10.20.050(a) and (b), 10.20.055 and 10.20.070, animal control (Repealed by 2013)
1543 Amends § 20.24.010, subdivisions (20.24)
1544 Amends § 11.04.065(a), speed limits (Repealed by 1749)
1545 Adds Ch. 5.76, aircraft landings permits (5.76)
1546 Amends § 14.01.040, water and sewer connections (14.01)
1547 Amends § 14.01.050(a) and (b), utility connections (14.01)
1548 Amends §§ 19.56.050(c)(3) and 20.16.120(a)(3) and (b), zoning and subdivisions (Repealed by 2131)
1549 Amends § 20.16.200, subdivisions (Not codified)
1550 Amends § 5.72.040, massage businesses license fee (Repealed by 1697)
1551 Amends § 20.24.010, subdivisions (Not codified)
1552 Amends § 7.08.110, garbage collection charges (7.08)
1553 ULID No. 12 (Special)
1554 Rezone (Special)
1555 Amends §§ 19.44.050 and 19.56.055, zoning (Repealed by 2131)
1556 Amends § 5.24.070, for-hire vehicle licenses (5.24)
1557 Amends § 19.44.040(a), zoning (Repealed by 2131)
1558 Amends § 19.16.010, zoning (Repealed by 2131)
1559 Adds § 16.04.160, building code (16.04)
1560 Amends Ord. 1456; ULID No. 10 assessment roll (Special)
1561 ULID No. 11 assessment roll (Special)
1562 Amends § 11.16.010, parking zones and stop streets (11.16)
1563 Zones annexed property (Special)
1564 Zones annexed property (Special)
1565 Amends §§ 6.79.040, 6.79.070 and 6.79.110, burglar alarms; repeals §§ 6.79.010, 6.79.050, 6.79.060 and 6.79.100 (6.79)
1566 Amends 1987-88 budget (Special)
1567 Amends §§ 2.16.040 and 2.60.020, administration and personnel (2.16)

1568 Amends §§ 16.32.020(12), (14) and (15); 16.32.140(1)(B); and 16.32.160, floodplain management; repeals §§ 16.32.020(6) and (7) (Repealed by 2325)
1569 Amends § 6.54.020(11), public disturbance (6.54)
1570 Adds subsection (c) to § 14.05.070, rules for customers, payment and collection of accounts (14.05)
1571 Amends § 19.16.010, zoning (Repealed by 2131)
1572 Amends § 11.04.010, traffic code (Repealed by 1989)
1573 Zones annexed property (Special)
1574 Zones annexed property (Special)
1575 Amends 1987-88 budget (Special)
1576 Amends § 5.64.020, pawnbrokers and secondhand dealers; repeals §§ 5.64.030 and 5.64.040 (5.64)
1577 Rezone (Special)
1578 ULID No. 10 bonds (Special)
1579 1988 tax levy (Special)
1580 Amends § 19.52.010, zoning (Repealed by 2131)
1581 Adds Ch. 14.18, stormwater drainage assessments in certain designated drainage basins (Repealed by 2245)
1582 Amends § 14.16.120, public storm drainage system code (Repealed by 2245)
1583 Adds subdivision (n) to; renumbers subdivisions (n) – (t) of § 18.20.070(2); planning (Repealed by 2131)
1584 Amends 1987-88 budget (Special)
1585 Amends 1987-88 budget (Special)
1586 LID No. 63 (Repealed by 1590)
1587 Amends § 2.16.040, civil service commission (2.16)
1588 Adds § 19.20.070, zoning (Repealed by 2131)
1589 Adds Ch. 2.45, jail facilities (2.45)
1590 Terminates LID No. 63; repeals Ord. 1586
1591 Amends § 2.50.100, personnel code for city employees (Repealed by 1950)
1592 Amends § 9.20.070, fireworks (9.20)
1593 Repeals and replaces Ch. 11.36, abandoned, unauthorized and junk vehicles (11.36)
1594 Amends § 2.24.100, municipal court and municipal court judge (2.24)
1595 Amends § 2.24.090, municipal court and municipal court judge (2.24)
1596 Amends § 2.35.020, finance director (2.35)
1597 Repeals and replaces § 7.12.010; repeals §§ 7.12.020 and 7.12.030, Uniform Litter Control Code (7.12)
1598 Amends § 18.24.045(d), mitigation of impacts resulting from development proposals (18.24)
1599 Repeals § 14.07.090(d) (14.07)
1600 Repeals Title 15 and Chs. 11.12, 11.32, 11.40 and 11.44 (Repealer)
1601 Rezone (Special)
1602 LID No. 63 (Special)
1603 Amends § 14.18.070(e), stormwater drainage assessments in certain designated drainage basins (Repealed by 2245)
1604 Repeals and replaces Ch. 19.40, zoning (Repealed by 2131)
1605 Adds § 11.16.020, regulatory signs and zones (Repealed by 1711)
1606 Repeals and replaces Ch. 2.48; repeals Ch. 2.49, police department (2.48)
1607 Alley vacation (Repealed by 1648)
1608 Amends 1987-88 budget (Special)
1609 Repeals and replaces Ch. 16.16, sign code; repeals subsections (6), (7) and (8) of § 18.24.040, zoning (Repealed by 2131)
1610 Amends § 2.20.060, parks and recreation (2.20)
1611 Amends §§ 19.44.045, 19.44.090 and 19.44.100; amends the title of Ch. 19.32 and §§ 19.29.010(1)(B), 19.32.010 and 19.56.050(b)(2), zoning; repeals §§ 19.08.330, 19.08.335, certain table entries in 19.20.010 and 19.44.030 (Repealed by 2131)
1612 Amends § 18.20.050(2)(ii), procedures and policies for implementing the state environmental policy act (Repealed by 2131)
1613 Amends § 14.32.040(4), rural service utility area (14.32)
1614 Amends §§ 2.50.040 and 2.50.050, personnel code for city employees (2.50)
1615 Amends §§ 6.50.010 and 6.60.010, peace morals and safety (6.50, 6.60)
1616 Street vacation (Special)
1617 Amends 1987-88 budget (Special)
1618 Repeals Ch. 3.04 (Repealer)
1619 Annexation (Special)
1620 Annexation (Special)
1621 LID No. 63, bond issuance (Special)
1622 Rezone (Special)
1623 Amends § 20.20.090, subdivisions (Not codified)
1624 Rezone (Special)
1625 Amends Ord. 1621, LID No. 63 (Special)
1626 Adds § 12.04.065; amends § 12.04.040, street names (12.04)
1627 Adds § 14.07.075, fees, charges and reimbursements (Repealed by 1840)
1628 Adds § 2.20.065, parks and recreation (2.20)
1629 Adds §§ 12.04.015, 12.04.035, 12.04.045 and 12.04.067, street names (12.04)
1630 Amends § 6.15.020, obstructing governmental operation (Repealed by 1993)
1631 Repeals § 19.32.020 (Repealer)
1632 Repeals and replaces § 12.02.170, street department code (12.02)
1633 Amends § 7.08.115(e) and (f), garbage collection (7.08)
1634 Amends § 3.64.060(f); repeals § 3.64.060(g), utilities tax (3.64)
1635 Amends § 14.07.020(b), water and sewers (14.07)
1635A LID No. 13 (Special)
1636 Repeals and replaces Ch. 5.20, entertainment clubs (5.20)
1637 Amends § 11.62.020(2), truck routes (11.62)
1638 Rezone (Special)
1639 Adds § 7.08.035, garbage collection (7.08)

1640 1989 tax levy (Special)
1641 Adds § 12.04.014, street names (12.04)
1642 Amends § 6.30.010, public indecency, prostitution, sex crimes (6.30)
1643 Repeals and replaces Ch. 6.21, assault and other crimes involving physical harm (6.21)
1644 Rezone (Special)
1645 Adds § 5.20.055; amends §§ 5.20.010(1) and 5.20.020; repeals § 5.20.050(13), entertainment clubs (5.20)
1646 Amends § 14.03.300, water and sewers (14.03)
1647 Amends § 19.52.010, zoning (Repealed by 2131)
1648 Alley vacation; repeals Ord. 1607 (Special)
1649 Rezone (Special)
1650 Rezone (Special)
1651 Rezone (Special)
1652 Adds § 19.16.040; amends § 19.16.010, zoning (Repealed by 2131)
1653 Amends §§ 11.62.020 and 11.62.030(1), truck routes (11.62)
1654 Amends § 3.60.050, local improvements, special assessments and bonds (3.60)
1655 Amends § 7.08.115(f), garbage collection (7.08)
1656 Amends 1987-88 budget (Special)
1657 Bond issuance (Special)
1658 Amends 1987-88 budget (Special)
1659 Adopts 1989 budget (Special)
1660 Amends 1987-88 budget (Special)
1661 Amends §§ 2.04.010(a) and 2.04.020, time and place of council meetings (2.04)
1662 Amends 1987-88 budget (Special)
1663 Street vacation (Special)
1664 Repeals and replaces Ch. 6.57, offenses by and against minors (6.57)
1665 Amends §§ 2.50.040 and 2.50.050, personnel code for city employees (2.50)
1666 Amends 1989 budget (Special)
1667 Amends 1987-88 budget (Special)
1668 Amends 1989 budget (Special)
1669 Adds Ch. 6.58, alcoholic beverage control; repeals §§ 6.54.020(11), 6.57.010, 6.57.020(5) – (9), 6.57.040, 6.57.050, 6.57.060 (6.58)
1670 Amends §§ 2.20.020 – 2.20.060, 2.20.070(a) and (g) and 2.20.080(g), parks and recreation (2.20)
1671 Adds § 5.20.075; amends §§ 5.20.040, 5.20.050(6) and 5.20.055(2)(c), entertainment clubs (5.20)
1672 Amends § 6.57.010, offenses by and against minors (6.57)
1673 Amends § 6.33.010 and renames Ch. 6.33 title, obscenity and pornography (6.33)
1674 Adds § 7.08.125, garbage collection (7.08)
1675 Amends § 11.46.010, regulations on certain streets (11.46)
1676 Amends §§ 6.45.010 and 6.60.010, peace, morals and safety (6.45, 6.60)
1677 Amends § 5.20.075, entertainment clubs (5.20)
1678 Amends rezone (Special)
1679 Amends 1989 budget (Special)
1680 Amends Ord. 1602, LID No. 63 (Special)
1681 Annexation (Special)
1682 Approves binding site plan modification (Special)
1683 (Pending)
1684 Adopts transportation improvement program No. 89-1 (Special)
1685 Repeals and replaces Ch. 6.36, loitering (6.36)
1686 Rezone (Special)
1687 Amends Ch. 3.51, petty cash fund (3.51)
1688 Amends § 5.64.010(b), pawnbrokers and secondhand dealers (5.64)
1689 Rezone (Special)
1690 Annexation (Special)
1691 Rezone (Special)
1692 Adds §§ 14.15.155, 14.16.025 and 14.17.015, water and sewers (Repealed by 2245)
1693 Adds § 6.15.030, obstructing governmental operation (6.15)
1694 Sewerage system; creates utility LID No. 14 (Special)
1695 Rezone (Special)
1696 Zones certain property (Special)
1697 Amends §§ 5.72.030, 5.72.060(4) and (5), 5.72.100, 5.72.120(a)(3), 5.72.120(b) and 19.08.017(7)(A) relating to massage business licenses; repeals §§ 5.72.040, 5.72.060(6), 5.72.090(a) and 5.72.130 (5.72)
1698 Rezone (Special)
1699 Rezone (Special)
1700 Amends 1989 budget (Special)
1701 Adds § 5.02.045; amends §§ 5.02.050, 5.02.060, 5.02.070(b) and 5.02.110, business licenses; repeals §§ 5.02.030(7), 5.02.040(d) and (e) and 5.02.120 (5.02)
1702 Amends 1989 budget (Special)
1703 Rezone (Special)
1704 Rezone (Special)
1705 Rezone (Special)
1706 Rezone (Special)
1707 Annexation (Special)
1708 Rezone (Special)
1709 Amends § 18.16.070, shoreline management master program (18.16)
1710 Adds § 20.24.040; amends §§ 20.24.010, 20.24.020 and 20.24.030, subdivisions (Not codified)
1711 Adds § 11.04.045, traffic code; repeals § 11.16.020 (Repealed by 1912)
1712 Rezone (Special)
1713 Amends § 19.30.080(a), zoning (Repealed by 2131)
1714 Annexation (Special)
1715 Amends § 20.20.100, subdivisions (Not codified)
1716 Amends § 6.28.010, drug paraphernalia (Repealed by 1993)
1717 Amends § 5.02.010(2), business licenses (5.02)
1718 Amends § 5.02.020, business licenses (5.02)
1719 Adds § 16.08.075, plumbing code (16.08)
1720 Amends § 5.64.080, pawnbrokers and secondhand dealers (5.64)
1721 Amends 1989 budget (Special)

1722 Rezone (Special)
1723 Approves plat; rezone; repeals Ord. 1362 (Special)
1724 Amends § 11.46.120(a), street closure (11.46)
1725 Corrects typographical error in § 9A.40.070(1) custodial interference, in § 6.15.010 (6.15)
1726 Adds § 14.03.035, setbacks from utility lines (14.03)
1727 Amends § 2 of Ord. 1706, rezone (Special)
1728 Amends 1989 budget (Special)
1729 Tax levy (Special)
1730 LID No. 13 (Special)
1731 Rezone (Special)
1732 Annexation (Special)
1733 Annexation (Special)
1734 Annexation (Special)
1735 Adopts Transportation Improvement Program No. 89-2 (Repealed by 2160)
1736 Amends §§ 16.32.020 and 16.32.160, flood damage prevention (Repealed by 2325)
1737 Amends §§ 6.15.010 and 6.56.020, custodial interference (6.15, 6.56)
1738 Repeals Ch. 3.08 (Repealer)
1739 Tax levy (Special)
1740 Amends §§ 3.64.020, 3.64.030 and 3.64.040, utility taxes (3.64)
1741 Street vacation (Special)
1742 1990 budget (Special)
1743 LID No. 63 (Special)
1744 Annexation (Special)
1745 Annexation (Special)
1746 Annexation (Special)
1747 Amends § 2.20.030, advisory boards (2.20)
1748 Amends 1989 budget (Special)
1749 Amends § 11.04.010, Model Traffic Ordinance; repeals § 11.04.065 and 11.24.010 (Repealed by 1989)
1750 Adds § 18.20.070(2)(v), Transportation Improvement Program No. 89-2 (Repealed by 2131)
1751 Amends §§ 5.02.040(d, e) and 5.02.045(1), business license application (5.02)
1752 Amends § 12.02.180(C), private easement width (12.02)
1753 Repeals Ch. 5.40 (Repealer)
1754 Amends §§ 3.64.030 and 3.64.040, utility taxes; repeals § 3.64.020(d) (3.64)
1755 Adds Ch. 3.93, hotel/motel tax (3.93)
1756 Adds § 3.60.065; repeals and replaces §§ 3.16.020 and 3.16.030, local improvement guaranty fund; repeals §§ 3.16.040 and 3.16.050 (3.16)
1757 LID No. 63 (Special)
1758 Water supply pipeline (Special)
1759 Amends 1990 budget (Special)
1760 Amends § 14.01.040(a), water service (Repealed by 1853)
1761 Rezone (Special)
1762 Repeals and replaces Ch. 16.10, energy code (16.10)
1763 Moratorium on sewer extensions and connections (Repealed by 1795)
1764 Street vacation (Special)
1765 Amends §§ 2.50.040 and 2.50.050, per diem reimbursement to mayor and council members (2.50)
1766 Adds § 16.04.035, board of appeals (16.04)
1767 Adds § 14.01.045, outside-city water service (14.01)
1768 Adds Ch. 7.06, solid waste management (7.06)
1769 Amends §§ 11.36.010 and 11.36.030(a), abandoned vehicles (11.36)
1770 Repeals Ch. 5.08, theaters, carnivals and entertainment (Repealer)
1771 Repeals Ch. 5.12, amusements and concessions (Repealer)
1772 Amends § 3 of Ord. 1755, hotel/motel tax effective date (Not codified)
1773 Amends § 20.16.160, subdivisions (Not codified)
1774 Amends § 18.20.070(3), SEPA appeals (Repealed by 2131)
1775 Amends § 5.48.050, Strawberry Festival permit (5.48)
1776 Adds Ch. 11.37, tow truck businesses used by the city (11.37)
1777 Amends §§ 6.03.040(c) and (d), 6.03.050, 6.03.070 and 6.03.090, prosecution procedure for criminal offenses (6.03)
1778 Amends §§ 9.20.010, 9.20.110 and 9.20.120(6), fire works (9.20)
1779 Amends § 20.16.180(c), subdivisions (Not codified)
1780 Amends § 19.08.275, zoning (Repealed by 2131)
1781 Adds § 19.16.030(d), zoning (Repealed by 2131)
1782 Amends § 19.08.215, zoning (Repealed by 2131)
1783 Amends portion of 1990 budget (Special)
1784 Annexation (Special)
1785 Rezone (Special)
1786 Amends § 14.03.035, setbacks from public utility lines (14.03)
1787 Amends § 3.64.060(f), utilities tax and § 7.08.115(e), garbage collection (3.64, 7.08)
1788 Renumbers § 7.08.060(c) to be 7.08.060(d) and adds new subsection (c), and amends § 7.08.110, garbage collection (7.08)
1789 Amends § 14.07.060(c), water service charges (14.07)
1790 Amends § 14.08.020(a)(1), sprinkling restrictions (14.08)
1791 Amends 1990 budget (Special)
1792 Amends § 2 of Ord. 1789, water service charges (Not codified)
1793 Rezone (Special)
1794 Adds § 11.04.062, prohibits short cuts between public streets (11.04)
1795 Moratorium on sewer extensions and connections, repeals Ord. 1763 (Repealed by 1846)
1796 Temporary suspension of the requirement of § 14.01.050 that a property within two hundred feet of the city sewer line must connect to the same, for the duration of the moratorium imposed by Ord. 1795 (Not codified)

1797 Amends § 14.05.020, discharge restrictions into sanitary sewers (14.05)
1798 Amends § 14.07.070(b), calculation of commercial sewer rates (14.07)
1799 Amends 1990 budget (Special)
1800 Amends § 12.04.014, street names (12.04)
1801 Amends 1990 budget (Special)
1802 Amends § 19.16.010, permitted uses (Repealed by 2131)
1803 Annexation (Special)
1804 Amends § 2.24.090(b)(1), municipal court costs – disposition of revenue (2.24)
1805 Amends § 10.20.050(b), dogs and cats – licenses – nuisances (Repealed by 2013)
1806 Annexation (Special)
1807 Adds Ch. 14.09, water and sewer conservation measures and §§ 16.08.130 and 16.08.140, plumbing code (14.09, 16.08)
1808 Amends Ord. 1795, moratorium on sewer connections (Special)
1809 Amends § 14.07.060(a)(2) and 14.07.070(a)(1), water and sewer rates (14.07)
1810 Adds § 14.03.190, rules for construction, installation and connection of water and sewer utilities (14.03)
1811 Tax levy (Special)
1812 Adds Ch. 3.65, water and sewer department gross receipts tax (3.65)
1813 Adds Ch. 3.67, solid waste department gross receipts tax (3.67)
1814 Adopts 1991 budget (Special)
1815 Adds Ch. 3.20, surface water utility fund (3.20)
1816 Adds Ch. 14.19, surface water utility (Repealed by 2245)
1817 Adds Ch. 2.70, hearing examiner (2.70)
1818 Amends 1990 budget (Special)
1819 Amends § 18.20.070(2)(v), procedures and policies for implementing the state environmental policy act (Repealed by 2131)
1820 Adds § 3.88.015; amends §§ 3.88.020, 3.88.030, 3.88.040, 3.88.050, 3.88.060 and 3.88.070, real estate excise tax (3.88)
1821 Adopts transportation improvement program No. 3 (Repealed by 1952)
1822 Adds §§ 7.08.012, 7.08.031, 7.08.032, 7.08.033 and 7.08.055; amends §§ 7.08.060, 7.08.065, 7.08.067, 7.08.080 and 7.08.095; repeals and replaces § 7.08.050, garbage collection (7.08)
1823 Authorizes publication of a local voters' pamphlet (Special)
1824 Amends §§ 3.51.020 and 3.51.030, petty cash fund (3.51)
1825 Amends § 2.35.030, finance director (2.35)
1826 Adds § 7.08.111, garbage collection (7.08)
1827 Amends 1991 budget (Special)
1828 Amends § 7.04.010, unsanitary conditions (7.04)
1829 Amends Ord. 1795 (Not codified)
1830 Adds § 3.94.035; amends § 3.94.010; repeals §§ 3.94.020 and 3.94.040, drug buy fund (3.94)
1831 Adds Ch. 3.95, criminal investigations fund (3.95)
1832 Amends § 19.16.010, permitted uses (Repealed by 2131)
1833 Amends Ord. 1795 (Not codified)
1834 Amends § 20.16.200, preliminary plat (Not codified)
1835 Easement condemnation (Special)
1836 Amends §§ 7.08.031, 7.08.032 and 7.08.050, garbage collection (7.08)
1837 Amends 1991 budget (Special)
1838 Creates ULID No. 17 (Special)
1839 Bond issuance (Special)
1840 Amends §§ 14.07.060 and 14.07.070, fees, charges and reimbursements, repeals § 14.07.075 (14.07)
1841 Amends § 14.07.010, fees, charges and reimbursements (14.07)
1842 Annexation (Special)
1843 Amends 1991 budget (Special)
1844 Amends § 2.04.010, time and place of meetings (2.04)
1845 Amends Ord. 1795 (Special)
1846 Temporary sewer restrictions; repeals Ord. 1795 (Repealed by 1883)
1847 Amends §§ 11.04.010 and 11.04.020, traffic code; repeals § 11.04.050 (Repealed by 1989)
1848 Amends § 20.20.090, subdivisions (Not codified)
1849 Amends §§ 7.08.012, 7.08.060, 7.08.065 and 7.08.100, garbage collection (7.08)
1850 Amends § 3.94.010, drug buy fund (3.94)
1851 Amends §§ 2.2, 3.3(c) and 4.1 of Ord. 1846, temporary sewer restrictions (Special)
1851A Amends §§ 3.51.010 and 3.51.030, petty cash fund (3.51)
1852 Condemnation of right-of-way (Special)
1853 Amends §§ 14.01.040 and 14.32.040, water and sewer (14.01, 14.32)
1854 Adds § 7.08.112; amends §§ 7.08.033 and 7.08.111, garbage (7.08)
1855 Amends § 1 of Ord. 1694, sewage system (Special)
1856 Condemnation of right-of-way easements (Special)
1857 Bond issuance (Special)
1858 Creates ULID No. 18 (Special)
1859 Annexation (Special)
1860 Establishes utility Local Improvement District No. 15 (Repealed by 1864)
1861 Amends § 14.05.040, service charge for delinquent utility bills (14.05)
1862 Amends Ord. No. 1856, condemnation of right-of-way easements (Special)
1863 Amends § 6.58.030, alcoholic beverage control (Repealed by 1993)
1864 Repeals Ord. No. 1860 (Repealer)
1865 1992 tax levy (Special)
1866 Adopts 1992 budget (Special)
1867 Amends § 2.04.010, city council meetings (2.04)
1868 Extends Ord. No. 1846 (Special)
1869 Amends §§ 19.40.020 and 19.40.030, zoning (Repealed by 2131)

1870 Annexation (Special)
1871 Amends 1991 budget (Special)
1872 Annexation (Repealed by 1881)
1873 Rezone (Special)
1874 Rezone (Special)
1875 Annexation (Special)
1876 Amends § 7.08.110, garbage collection rates (7.08)
1877 Rezone (Special)
1878 Rezone (Special)
1879 Repeals and replaces Chs. 2.60 and 9.24, fire department and aid car and ambulance service (2.60, 9.24)
1880 Rezone (Special)
1881 Annexation (Special)
1882 Rezone (Special)
1883 Temporary sewer restrictions; repeals Ord. 1846 (Special)
1884 Adds Ch. 3.97, drug enforcement fund (3.97)
1885 Annexation (Special)
1886 Rezone (Special)
1887 Rezone (Special)
1888 Rezone (Special)
1889 Rezone (Vetoed)
1890 Amends Ord. 1889 (Special)
1891 Rezone (Special)
1892 Rezone (Special)
1893 Rezone (Special)
1894 Rezone (Special)
1895 Annexation (Special)
1896 Annexation (Special)
1897 Condemnation of right-of-way (Special)
1898 Bond issuance (Special)
1899 ULID No. 12 assessment roll (Special)
1900 ULID No. 14 assessment roll (Special)
1901 ULID No. 17 assessment roll (Special)
1902 ULID No. 18 assessment roll (Special)
1903 Rezone (Special)
1904 Amends § 2.50.100, personnel code (Repealed by 1950)
1905 Annexation (Special)
1906 Annexation (Special)
1907 Rezone (Special)
1908 Rezone (Special)
1909 Rezone (Special)
1910 Annexation (Special)
1911 Bond issuance (Special)
1912 Adds Ch. 11.08; repeals § 11.04.045, parking (11.08)
1913 Rezone (Special)
1914 Adds § 20.16.025, model homes (Not codified)
1915 Rezone (Special)
1916 Amends §§ 10.24.010 and 10.24.020, animal control (Repealed by 2013)
1917 Rezone (Special)
1918 Adds Ch. 19.60, zoning (Repealed by 2131)
1919 1993 budget (Special)
1920 Rezone (Special)
1921 Rezone (Special)
1922 Adds table to § 19.20.010; amends § 19.20.050, zoning (Repealed by 2131)
1923 Tax levy (Special)
1924 Adds Ch. 1954; amends §§ 18.16.070, 18.20.100, 19.44.060(c), 19.56.050(b)(2), 20.24.010, 20.24.020, 20.24.030 and 20.24.040, planning, zoning and land use fees (18.16)
1925 Adds § 7.08.113; amends §§ 7.08.032, 7.08.110 and 7.08.112, garbage and yard waste collection and recycling (7.08)
1926 Adds Ch. 3.69, surface water utility gross receipts tax (3.69)
1927 Amends 1992 budget (Special)
1928 Sensitive areas management (Repealed by 2131)
1929 Annexation (Special)
1930 Zones annexed property (Special)
1931 Zones annexed property (Special)
1932 (Vetoed)
1933 Amends §§ 2.24.020, 2.24.030, 2.24.090, 2.24.100, 2.24.210 and 2.24.220, municipal court and judge (2.24)
1934 Annexation (Special)
1935 Rezone (Special)
1936 Amends §§ 3.51.010 – 3.51.030, petty cash fund (3.51)
1937 Adds § 6.57.040; amends § 6.57.010, offenses by and against minors (6.57)
1938 Annexation (Special)
1939 Street vacation (Special)
1940 Street vacation (Special)
1941 Annexation (Special)
1942 Adds § 9.20.020; amends § 9.20.010, fireworks (9.20)
1943 Bond issuance (Special)
1944 Rezone (Special)
1945 Bond issuance (Special)
1946 Bond issuance (Special)
1947 Adds § 9.04.070; amends §§ 9.04.010, 9.04.050 and 9.04.060; repeals §§ 9.04.071, 9.04.072, 9.04.073, 9.04.074 and 9.04.075, fire code (9.04)
1948 Amends §§ 16.04.010, 16.04.030, 16.08.010, 16.08.075, 16.08.120, 16.10.030, 16.16.140(a), 16.20.020, 16.28.010 and 16.36.010; repeals §§ 16.04.040, 16.04.150, 16.08.070, 16.10.010 and 16.10.020, uniform codes (16.04, 16.08, 16.10, 16.20, 16.28, 16.36)
1949 Franchise grant to Tele-Vue Systems, Inc. (Special)
1950 Repeals § 2.50.100 (Repealer)
1951 Amends §§ 3.51.010, 3.51.020 and 3.51.030, petty cash fund (3.51)
1952 Repeals Ord. 1821 (Repealer)
1953 Amends § 6.58.030, liquor consumption by minors (Repealed by 1993)
1954 Amends Ch. 6.79 in its entirety, burglar alarms (6.79)
1955 Amends § 19.08.525, zoning (Repealed by 2131)
1956 Rezone (Special)
1957 Street vacation (Special)
1958 Amends § 6.76.060, public nuisances (6.76)

1959 Adds § 6.48.020; amends § 6.48.010, trespassing (6.48)
1960 Adds Ch. 11.08, cruising on State Avenue (11.08)
1961 Amends Ord. 1957, street vacation (Special)
1962 Amends Ch. 19.36, zoning (Repealed by 2131)
1963 Bond issuance (Special)
1964 Rezone (Special)
1965 Rezone (Special)
1966 Amends §§ 16.16.030, 16.16.140 and 16.16.170, signs (Repealed by 2131)
1967 Rezone (Special)
1968 Annexation (Special)
1969 Rezone (Special)
1970 Annexation (Special)
1971 Tax levy (Special)
1972 Amends §§ 2.50.040 and 2.50.050, compensation (2.50)
1973 1994 budget (Special)
1974 Adds § 16.04.050, Uniform Building Code (16.04)
1975 Amends §§ 3.64.020, 3.64.030 and 3.64.040, utilities tax (3.64)
1976 Amends Chs. 3.65, 3.67 and 3.69, gross receipts taxes (3.65, 3.67, 3.69)
1977 Rezone (Special)
1978 Annexation (Special)
1979 Cable television rate regulation (Repealed by 2489)
1980 Annexation (Special)
1981 Adds Ch. 3.90, tribal gaming fund (3.90)
1982 Amends 1993 budget (Special)
1983 Rezone (Special)
1984 Amends § 19.16.010, zoning (Repealed by 2131)
1985 Adds §§ 19.08.057 and 19.08.033; amends § 19.08.065; repeals § 19.08.175, zoning (Repealed by 2131)
1986 Amends Title 20, subdivisions; repeals Ord. 701 (20.04, 20.08, 20.12, 20.16, 20.20, 20.24, 20.28, 20.32, 20.36, 20.40, 20.44, 20.48, 20.52, 20.56, 20.60, 20.64, 20.68, 20.72, 20.76, 20.80, 20.84, 20.88)
1987 Amends § 19.16.010, zoning (Repealed by 2131)
1988 Repeals § 6.42.020 (Repealer)
1989 Amends § 11.36.010; repeals and replaces §§ 11.04.010 and 11.04.020; repeals §§ 11.04.040, 11.46.050, 11.46.110 and Chs. 11.56, 11.60 and 11.72, traffic (11.04, 11.36)
1990 Alley vacation (Special)
1991 Binding site plan approved (Special)
1992 Rezone (Special)
1993 Adds § 6.12.030 and Ch. 6.22; amends §§ 6.03.120, 6.12.010, 6.15.010, 6.27.010, 6.30.010, 6.36.030, 6.39.030, 6.48.010, 6.50.010 and 6.57.040; repeals §§ 6.15.020, 6.58.030 and Ch. 6.28, peace, morals and safety (6.03, 6.12, 6.15, 6.27, 6.30, 6.36, 6.39, 6.48, 6.50, 6.57)
1994 Bond issuance (Special)
1995 Bond issuance (Special)
1996 Rezone (Special)
1997 Rezone (Special)
1998 Amends § 3.51.020, petty cash fund (3.51)
1999 Annexation (Special)
2000 Amends § 5.72.030, massage businesses and practitioners (5.72)
2001 Street vacation (Special)
2002 Street vacation (Special)
2003 Condemnation (Repealed by 2053)
2004 Rezone (Special)
2005 Rezone (Special)
2006 Annexation (Special)
2007 Rezone (Special)
2008 1995 budget Special)
2009 1995 tax levy (Special)
2010 Rezone (Special)
2011 Annexation (Special)
2012 Annexation (Special)
2013 Animal regulations; repeals Ords. 112, 114, 458, 416, 462, 542, 832, 1008, 1051, 1324, 1328, 1329, 1388, 1413, 1438, 1542, 1805, 1916 (10.04)
2014 Adds Ch. 19.26, rural use zone, and §§ 19.08.038, 19.08.039, 19.08.052, 19.08.127, 19.08.182, 19.08.183, 19.08.184, 19.08.243, 19.08.262, 19.08.447 and 19.08.457; amends Ch. 19.16, zoning (Repealed by 2131)
2015 Rezone (Special)
2016 LID No. 64 (Special)
2017 Rezone (Special)
2018 Rezone (Special)
2019 Adds § 2.24.225 and amends § 2.24.220, incarceration costs (2.24)
2020 Amends §§ 16.16.020(21), 16.16.210(1)(F) and (3), 16.16.230, 16.16.240 and 16.16.260, signs (Repealed by 2131)
2021 Annexation (Special)
2022 Moratorium on adult entertainment permits (Special)
2023 Rezone (Special)
2024 Amends 1994 budget (Special)
2025 Adds § 6.60.050 and amends §§ 6.60.010 and 6.60.040, firearms (6.60)
2026 Annexation (Special)
2027 Binding site plan amendment (Special)
2028 Rezone (Special)
2029 Rezone (Special)
2030 Amends hearing examiner provisions (18.04, 18.16, 18.24)
2031 Amends §§ 9.20.020 and 9.20.070, fireworks (9.20)
2032 LID No. 65 (Special)
2033 Rezone (Special)
2034 Extends moratorium on adult entertainment permits (Special)
2034-A Rezone (Special)
2035 Rezone (Special)
2036 Rezone (Special)
2037 Annexation (Special)
2038 Claims processing under Initiative 164 (Special)
2039 Cable television rates and charges (Not codified)
2040 Cable television rates and charges (Not codified)
2041 Annexation (Special)

2042 Amends Ch. 19.60, BI, GI and LI zones (Repealed by 2131)
2043 LID Nos. 64 and 65 bond issuance (Special)
2044 Adds § 19.16.060(D), variances (Repealed by 2131)
2045 Adds Title 4, enforcement code (4.02)
2046 Amends Ch. 6.24, public nuisances (6.24)
2047 Rezone (Special)
2048 Rezone (Special)
2049 Approves change in franchisee (Special)
2050 Rezone (Special)
2051 Rezone (Special)
2052 Rezone (Special)
2053 Repeals Ord. 2003 (Repealer)
2054 1996 tax levy (Special)
2055 Adopts 1996 budget (Special)
2056 Annexation (Special)
2057 Annexation (Special)
2058 Rezone (Special)
2059 Rezone (Special)
2060 Rezone (Special)
2061 Bond issuance (Special)
2062 Adds § 16.04.040; amends §§ 16.04.010, 16.04.030, 16.04.050, 16.08.010 and 16.28.010; and repeals § 16.16.140, buildings and construction (16.04, 16.08, 16.28)
2063 Amends 1995 budget (Special)
2064 Annexation (Special)
2065 Annexation (Special)
2066 Annexation (Special)
2067 Adds § 14.07.020(3), water and sewers (14.07)
2068 Adopts comprehensive plan (Special)
2069 Adds Ch. 19.22, adult facility overlay zone, and § 19.36.120(40); amends §§ 19.12.010, 19.16.010, 19.36.080(3) and (10), 19.60.020 and 19.60.160; repeals §§ 19.08.017 and 19.16.070 (Repealed by 2131)
2070 Adds Ch. 5.80, adult motion picture theaters, adult drive-in theaters and adult cabarets, Ch. 5.84, adult panorams, Ch. 5.88, bikini clubs, Ch. 5.92, public bath houses, body shampoo parlors and tattoo parlors, and Ch. 5.96, body studios; amends §§ 5.20.010(1)(b) and (4), and 6.30.020(d) (5.20, 5.80, 5.84, 5.88, 5.92, 5.96, 6.30)
2071 Amends 1995 budget (Special)
2072 Wastewater pretreatment (14.20)
2073 Property condemnation (Special)
2074 Adds § 6.57.050; amends §§ 11.08.080, 11.08.250 and 11.08.260; repeals § 11.08.160, parking (6.57, 11.08)
2075 Approves preliminary plat (Special)
2076 Rezone (Special)
2077 Rezone (Special)
2078 Amends §§ 7.08.033, 7.08.111 and 7.08.112, garbage collection (7.08)
2079 Adds Title 15, development code administration (15.01, 15.03, 15.05, 15.07, 15.09, 15.11, 15.13)
2080 Rezone (Special)
2081 Bond issuance (Special)
2082 1996-97 salaries (Special)
2083 Amends Ords. 2064, 2065 and 2066, annexations (Special)
2084 Street vacation (Special)
2085 Street vacation (Special)
2086 Street vacation (Special)
2087 Street vacation (Special)
2088 Amends §§ 6.15.010 and 6.56.010, penal code (6.15, 6.56)
2089 Special election for bond issuance (Special)
2090 Amends § 20.12.140(4), preliminary subdivision review (20.12)
2091 Street vacation (Special)
2092 Street vacation (Special)
2093 Property condemnation (Special)
2094 Repeals and replaces Ch. 19.29, mixed use zone (Repealed by 2131)
2095 Amends § 14.32.040(2) and (9), rural utility service area (14.32)
2096 Mayor (Not codified)
2097 Annexation (Special)
2098 Rezone (Special)
2099 Special events (5.100)
2100 Adds § 16.04.037, building code (16.04)
2101 1997 tax levy (Special)
2102 Adopts 1997 budget (Special)
2103 Grants conditional use permit and variance (Special)
2104 Street vacation (Special)
2105 Rezone (Special)
2106 Adds §§ 12.28.025, 14.07.005 and 14.15.115; amends §§ 3.60.140, 12.02.060, 12.02.100, 12.02.110(4), 12.02.120, 12.32.010, 14.03.010, 14.03.500, 14.05.040, 14.05.050, 14.05.060, 14.05.080, 14.07.030, 14.07.050(2), 14.07.090(6), 14.08.040, 14.15.090, 14.16.060, fees (3.60, 12.02, 12.28, 12.32, 14.03, 14.05, 14.07, 14.08)
2107 Amends Ord. 2043, LID Nos. 64 and 65, bond issuance (Special)
2108 Interfund loan (Special)
2109 Amends §§ 14.07.060 and 14.07.070, water and sewer rates (14.07)
2110 Annexation (Special)
2111 Rezone (Special)
2112 Amends § 6.27.010, controlled substances and drug paraphernalia (6.27)
2113 Amends § 2.50.040, mayor (2.50)
2114 Amends § 11.08.200(1), parking regulations (11.08)
2115 Adds Ch. 19.28, small farms overlay zone, and § 20.24.300, land division requirements (20.24)
2116 Amends § 7.08.030, garbage collection (7.08)
2117 Adds § 14.07.060(j); and amends §§ 14.07.060(f) and 14.07.070(d), water and sewer rates (14.07)
2118 Annexation (Special)
2119 Amends 1996 budget (Special)
2120 LID No. 66 (Special)
2121 Property condemnation (Special)
2122 Adds Ch. 6.80, curfew (6.80)

2123 Amends Ord. 2081, bond issuance (Special)
2124 Amends §§ 2.16.040, 2.48.020 and 2.48.030, police chief (2.16, 2.48)
2125 Rezone (Special)
2126 Rezone (Special)
2127 Rezone (Special)
2128 Rezone (Special)
2129 Rezone (Special)
2130 Amends §§ 14.07.060(f) and 14.07.070(d), water and sewers (14.07)
2131 Repeals and replaces Title 19, zoning (19.02, 19.04, 19.06, 19.08, 19.12, 19.14, 19.16, 19.18, 19.20, 19.22, 19.24, 19.26, 19.28, 19.32, 19.34, 19.36, 19.37, 19.38, 19.40, 19.42, 19.44, 19.46, 19.48, 19.50, 19.52, 19.54, 19.56, 19.58, 19.60)
2132 1997-98 salaries (Special)
2133 Property condemnation (Special)
2134 Adds § 5.84.040(5); amends §§ 5.80.050(4) and 5.88.040(4), adult use businesses (5.80, 5.84, 5.88)
2135 Amends § 2.20.030, parks and recreation (2.20)
2136 Amends §§ 2.08.010 and 2.08.030, library board (2.08)
2137 Amends § 18.04.020, planning commission (18.04)
2138 Rezone (Special)
2139 Amends § 14.15.090; repeals § 14.15.115, on-site stormwater drainage (Repealed by 2245)
2140 Amends Ord. 2068, comprehensive plan (Special)
2141 Adds § 15.05.070, consolidated application process (15.05)
2142 Zones certain property (Special)
2143 Adds § 11.04.085, traffic code (11.04)
2144 Rezone (Special)
2145 Adds Ch. 19.43 and §§ 19.06.701 – 19.06.710; amends §§ 12.02.170(3)(g), 19.08.060, 19.08.100, 19.12.030, 19.12.040, 19.12.170 and 19.16.090; repeals §§ 19.06.108, 19.06.110 and 19.06.160, wireless communication facilities (12.02, 19.06, 19.08, 19.12, 19.16, 19.43)
2146 Rezone (Special)
2147 Amends §§ 11.37.010 and 11.37.040, tow truck businesses (11.37)
2148 LID No. 67 (Special)
2149 Rezone (Special)
2150 Adds §§ 2.24.085, 2.30.055 and 2.35.055; repeals and replaces §§ 2.24.080, 2.30.050 and 2.35.050, oath and bonds (2.24, 2.30, 2.35)
2151 Adds §§ 19.06.019, 19.06.071, 19.06.379, 19.06.426 and 19.08.060(2)16; amends §§ 19.08.030(1), 19.08.060(1), 19.16.090 and 19.60.020; repeals and replaces §§ 19.06.125(2), 19.06.148, 19.08.050(2)3, 19.08.070(2)4, 19.12.030(2)2, 19.12.060, 19.14.070(1), 19.20.200(3)(d), 19.24.220, 19.24.320(1), 19.44.060 and 19.50.035(4); repeals § 19.06.245, zoning (19.06, 19.08, 19.12, 19.14, 19.16, 19.20, 19.24, 19.44, 19.50)
2152 Adds Ch. 11.52, commute trip reduction plan (11.52)
2153 Adds §§ 19.06.506 and 19.08.100(2)7; amends § 19.08.100(1), zoning (19.06, 19.08)
2154 Property condemnation (Special)
2155 Annexation (Special)
2156 Adds Ch. 6.37, pedestrian interference (6.37)
2157 Adds Ch. 12.22, sitting or lying down on sidewalks (12.22)
2158 Bond issuance (Special)
2159 Adds Ch. 7.05, camping (7.05)
2160 Repeals Ord. 1735 (Repealer)
2161 Repeals and replaces §§ 20.24.200(3) and 20.56.230(4), subdivisions (20.24, 20.56)
2162 Rezone (Special)
2163 Amends §§ 2.50.040 and 2.50.050, mayor and council compensation (2.50)
2164 Street vacation (Special)
2165 1998 tax levy (Special)
2166 Adopts 1998 budget (Special)
2167 Amends 1997 budget (Special)
2168 Amends § 3.65.010, water and sewer gross receipts tax (3.65)
2169 Amends § 3.67.010, solid waste department tax (3.67)
2170 Amends § 3.69.010, surface water utility tax (3.69)
2171 LID Nos. 64 and 65 (Special)
2172 Rezone (Special)
2173 LID No. 64 (Special)
2174 LID No. 65 (Special)
2175 Amends Ord. 2165, 1998 tax levy (Special)
2176 Rezone (Special)
2177 Rezone (Special)
2178 Rezone (Special)
2179 Amends §§ 3.51.020 and 3.51.030, petty cash fund (3.51)
2180 Rezone (Special)
2181 Amends § 14.07.060, water rates (14.07)
2182 Amends Ord. 2091, street vacation (Special)
2183 Amends comprehensive plan and § 12.02.090, driveways (12.02)
2184 Rezone (Special)
2185 Rezone (Special)
2186 Rezone (Special)
2187 Adds § 19.14.085; amends §§ 19.14.080 and 19.14.090, development standards (Repealed by 2572)
2188 LID No. 64/65 bonds (Special)
2189 LID No. 69 (Special)
2190 Amends § 19.38.050, mobile home parks (19.38)
2191 Rezone (Special)
2192 Rezone (Special)
2193 Rezone (Special)
2194 Amends § 6.57.010, minors (6.57)
2195 Rezone (Special)
2196 Rezone (Special)
2197 Rezone (Special)
2198 Rezone (Special)
2199 Adds §§ 1.12.030 and 1.12.040, city council (1.12)
2200 Rezone (Special)

2201 Rezone (Special)
2202 Amends Chs. 2.70, 15.01, 15.03, 15.07, 15.09, 15.11, 20.36, 20.64, 20.84, and §§ 19.54.100 and 20.12.090, hearing examiner (2.70, 15.01, 15.03, 15.07, 15.09, 15.11, 19.54, 20.12, 20.36, 20.64, 20.84)
2203 Salary schedule (Special)
2204 Amends §§ 16.04.010, 16.04.030, 16.04.050, 16.08.010, 16.08.075 and 16.28.010, uniform codes (16.04, 16.08, 16.28)
2205 Rezone (Special)
2206 Rezone (Special)
2207 Amends § 6.60.030, air guns (6.60)
2208 Adds Ch. 11.06, skateboarding/in-line skating in Comeford Park (11.06)
2209 Rezone (Special)
2210 Rezone (Special)
2211 Rezone (Special)
2212 Bond issuance (Special)
2213 Adds Title 18C, school impact fees and mitigation (18C.02, 18C.04, 18C.06, 18C.08, 18C.10, 18C.12, 18C.14, 18C.16)
2214 Bond issuance (Special)
2215 Rezone (Special)
2216 Street vacation (Special)
2217 1999 tax levy (Special)
2218 Adopts 1999 budget (Special)
2219 Amends 1998 budget (Special)
2220 Salary schedule (Special)
2221 Adds §§ 11.04.100, 11.04.110, 11.04.120 and 11.04.130, traffic code (11.04)
2222 Adopts 1997-2017 sewer comprehensive plan (Special)
2223 Street vacation (Special)
2224 Amends Ord. 2217, 1999 tax levy (Special)
2225 Property condemnation (Special)
2226 Rezone (Special)
2227 Adds Ch. 3.99, Ken Baxter Senior/Community Center appreciation fund (3.99)
2228 Amends §§ 19.14.080, 19.14.085 and 19.14.090, development standards (Repealed by 2572)
2229 Adds § 3.50.020, payment of claims and warrants (3.50)
2230 Amends 1999 budget (Special)
2231 Amends 1999 budget (Special)
2232 Land condemnation (Special)
2233 Amends § 19.46.050(7), zoning (19.46)
2234 Amends 1998 budget (Special)
2235 Amends 1999 budget (Special)
2236 Amends 1999 budget (Special)
2237 Amends 1999 budget (Special)
2238 Amends growth management comprehensive plan (Special)
2239 Rezone (Special)
2240 Rezone (Special)
2241 Rezone (Special)
2242 Amends § 19.08.040, zoning (19.08)
2243 Amends 1999 budget (Special)
2244 Amends § 5.20.050, entertainment clubs (5.20)
2245 Repeals and replaces Chs. 14.15, 14.16, 14.17, 14.18 and 14.19, storm and surface water management (14.16, 14.17, 14.18, 14.19)
2246 Amends § 19.28.020(4); repeals and replaces §§ 19.28.030(1), 19.28.040, 19.28.070(2) and 19.28.090, clearing, grading, filling and erosion control (19.28)
2247 LID No. 66 (Special)
2248 LID No. 67 (Special)
2249 Amends §§ 2.04.010(2) and 2.04.020, city council (2.04)
2250 Rezone (Special)
2251 Rezone (Special)
2252 Annexation (Special)
2253 Rezone (Special)
2254 Rezone (Special)
2255 Amends §§ 6.76.090(1) and 11.04.090, traffic infractions (6.76, 11.04)
2256 Property condemnation (Special)
2257 Amends 1999 budget (Special)
2258 Rezone (Special)
2259 Grants conditional use permit (Special)
2260 Rezone (Special)
2261 Recreational vehicle and travel trailer temporary permits (19.45)
2262 Amends §§ 3.51.010 and 3.51.020, petty cash fund (3.51)
2263 Amends 1999 budget (Special)
2264 Rezone (Special)
2265 Rezone (Special)
2266 Adds § 19.04.210; amends §§ 19.04.020, 19.08.040, 19.08.090(1) and 19.12.040(1), zoning (19.04, 19.08, 19.12)
2267 Amends §§ 14.07.005 and 14.07.010(1), public works fees (14.07)
2268 Annexation (Special)
2269 Amends § 19.08.060(1), government/business service land uses (19.08)
2270 Gambling activities development application moratorium (Special)
2271 Amends 1999 budget (Special)
2272 Amends 1999 budget (Special)
2273 Rezone (Special)
2274 Amends § 19.22.070(2), SEPA decisions (19.22)
2275 Amends 1999 budget (Special)
2276 Annexation (Special)
2277 Amends 1999 budget (Special)
2278 Engineering design and development standards (Not codified)
2279 Adds Title 18B, traffic impact fees (18B.02, 18B.04, 18B.06, 18B.08, 18B.10, 18B.12, 18B.14, 18B.20, 18B.22)
2280 Amends Ch. 19.24, sensitive areas (19.24)
2281 Snohomish County emergency radio system interlocal cooperation agreement (Special)
2282 Amends 1999 budget (Special)
2283 Annexation (Special)
2284 Amends § 14.07.070, sewer rates (14.07)
2285 Amends §§ 7.08.110 and 7.08.111, garbage and yard waste rates (7.08)

2286 Paths and trails, REET 1 and 2 funds (Special)
2287 Gambling activities development application moratorium (Special)
2288 Amends § 5.02.070(1), business license fees (5.02)
2289 Amends §§ 2.24.090, 2.24.100, 2.24.210 and 2.24.220, municipal court (2.24)
2290 Adds § 14.07.005A, general fee structure (Repealed by 2554)
2291 Amends Ord. 2244, § 2, entertainment clubs (5.20)
2292 Adds Ch. 12.02A; repeals Ch. 12.06; repeals and replaces §§ 12.08.010, 12.08.020, 12.12.020, 12.12.030, 12.12.060, 19.12.190 and 20.24.090, street standards (12.02A, 12.08, 12.12, 19.12, 20.24)
2293 Historic property improvement property tax special evaluation (3.89)
2294 Adds § 11.04.040, compression brakes (11.04)
2295 Adds Ch. 6.25, graffiti (6.25)
2296 Rezone (Special)
2297 Plat extension (Special)
2298 Adds § 19.06.407; amends §§ 19.06.390; 19.08.040(1); 19.08.050; 19.08.060(1) and (2)(7); 19.08.070; 19.08.080; 19.08.100(1); 19.12.030(1) and (2)(4) and (8); 19.12.140(2); 19.12.160(1) and (2); 19.14.100(1) and (2)(c); 19.16.090; 19.16.100(3); 19.18.060; 19.18.090(1) and (5); 19.18.160; 19.26.030(5); 19.46.050(4); 19.48.110 and 19.60.020, zoning (19.06, 19.08, 19.12, 19.14, 19.16, 19.18, 19.26, 19.46, 19.48)
2299 Parks and recreation fee schedule (Repealed by 2502)
2300 Adds Title 18A, park impact fees (18A.04)
2301 Adopts 2000 budget (Special)
2302 2000 tax levy (Special)
2303 Amends 1999 budget (Special)
2304 Approves and confirms assessments, LID No. 69 (Special)
2305 Amends § 14.07.010(2), sewer and water utility (14.07)
2306 Amends Ch. 18C.10, school impact fees (18C.10)
2307 Amends § 3.92.060, social card games tax (3.92)
2308 Rezone (Special)
2309 Gambling activities development application moratorium (Special)
2310 Amends 2000 budget (Special)
2311 Consolidated LID No. 66, fund, bonds (Special)
2312 Street vacation; amends Ord. 2223 (Special)
2313 Street vacation (Special)
2314 Street vacation (Special)
2315 Adds Ch. 3.89, Marysville television programming fund (3.89)
2316 Amends § 18C.10.010, school impact fees (18C.10)
2317 Street vacation (Special)
2318 Adds Ch. 3.53, travel advance fund (3.53)
2319 Amends § 11.62.020, truck routes (11.62)
2320 Amends § 11.37.040, tow truck business (11.37)
2321 Amends § 12.32.050, street vacation appraisal (12.32)
2322 Amends 2000 budget (Special)
2323 Amends comprehensive plan (Special)
2324 Adds Ch. 5.26, social card games; repeals gambling activities development application moratorium (5.26)
2325 Adds §§ 16.32.180 – 16.32.210; amends § 16.32.090; repeals and replaces §§ 16.32.020, 16.32.040, 16.32.050, 16.32.110, 16.32.120, 16.32.130, 16.32.140, 16.32.150 and 16.32.160, floodplain management (16.32)
2326 School impact fees (Rescinded)
2327 Adopted Marysville School District's capital facilities plan (Rescinded)
2328 Special election for six-year levy for emergency medical services (Special)
2329 Annexation (Special)
2330 Amends § 18C.06.010, school district eligibility for impact fees (18C.06)
2331 Amends § 18C.10.050, school impact fee (18C.10)
2332 Amends § 18C.10.010, school impact fee (18C.10)
2333 Amends § 12.04.065, street names (12.04)
2334 Condemnation and appropriation of property (Special)
2335 2001 tax levy (Special)
2336 Adopts 2001 budget (Special)
2337 Amends §§ 7.05.050 and 11.08.200, recreational vehicle and truck parking (7.05, 11.08)
2338 Increases 2001 tax levy (Special)
2339 Readopts and reimposes school impact fees (18C.06, 18C.10)
2340 Readopts and reimposes business license fees (5.02)
2341 Readopts and reimposes court costs (2.24)
2342 Readopts and reimposes general fee structure (Repealed by 2554)
2343 Readopts and reimposes traffic impact fees (18B.14)
2344 Readopts and reimposes park, recreation and trail impact fees (18A.04)
2345 Readopts and reimposes sewer and water capital improvement charges (14.07)
2346 Readopts and reimposes public works fees (14.07)
2347 Readopts and reimposes satellite sewer rate classification (14.07)
2348 Readopts and reimposes parks and recreation fee schedule (Special)
2349 Amends § 12.04.065, street names (12.04)
2350 Disability board (2.88)
2351 Cable service franchise grant to Black Rock Cable, Inc. (Special)
2352 Readopts and reimposes garbage and yard waste rates (7.08)
2353 Amends 2000 budget (Special)
2354 Amends 2000 budget (Special)
2355 Amends 2001 budget (Special)

2356 Grants extension for final plat completion (Special)
2357 Amends 2001 budget (Special)
2358 Amends 2001 budget (Special)
2359 Amends 2001 budget (Special)
2360 Amends § 11.62.030, truck routes (11.62)
2361 Abolishes and consolidates administrative positions (Special)
2362 Adds §§ 3.64.100 – 3.64.160, utilities tax (3.64)
2363 Amends § 2.50.040, compensation of mayor (2.50)
2364 Amends Ch. 2.34, chief administrative officer (2.34)
2365 Amends § 11.08.200(2), parking regulations (11.08)
2366 Amends 2001 budget (Special)
2367 Amends § 11.16.010, regulatory signs and zones (11.16)
2368 Amends Ch. 2.20, parks and recreation (2.20)
2369 Adds §§ 3.51.020(10) and 3.51.030(8); amends § 3.51.010, petty cash fund (3.51)
2370 Amends 2001 budget (Special)
2371 Amends 2001 budget (Special)
2372 Amends 2001 budget (Special)
2373 Amends §§ 20.16.040(4)(a) and 20.20.100(11)(d)(i), subdivisions (20.16, 20.20)
2374 Amends § 11.08.070(3), parking regulations (11.08)
2375 Amends Ch. 14.32, and §§ 14.01.030, 14.01.050, 14.03.090, 14.03.300, 14.03.500 and 14.07.005A, utility service area (14.01, 14.03, 14.32)
2376 Amends § 2.04.010, time and place of council meetings (2.04)
2377 Fire, building code amendments (9.04, 16.04)
2378 Amends §§ 9.04.030, 9.04.040 and 9.04.060; repeals and replaces §§ 9.04.010 and 9.04.070; repeals §§ 9.04.050, fire code (9.04)
2379 Annexation (Special)
2380 Annexation (Special)
2381 Amends comprehensive plan (Special)
2382 Amends comprehensive plan (Special)
2383 Extends cable franchise agreements (Special)
2384 Amends comprehensive plan (Special)
2385 Amends § 14.08.020, water shortage emergency (14.08)
2386 Amends comprehensive plan (Special)
2387 2002 tax levy (Special)
2388 Annexation (Special)
2389 (Number not used)
2390 Amends §§ 7.08.110 and 7.08.111, garbage rates (7.08)
2390A Extends cable service franchise grant (Special)
2391 Adopts amended design standards (Special)
2392 Amends Ord. 2380, annexation (Special)
2393 Adopts 2002 budget (Special)
2394 Amends §§ 14.07.060 and 14.07.070, water and sewer rates (14.07)
2395 Authorizes increase in tax levy (Special)
2396 Adds § 12.32.090; amends § 12.32.020(2), vacation of streets and alleys (12.32)
2397 Amends 2001 budget (Special)
2398 Amends § 3.51.020(3) and (10), petty cash fund (3.51)
2399 Amends Ord. 2395, authorizing increase in property tax levy (Special)
2400 Amends Ord. 2387, 2002 property tax levy (Special)
2401 Annexation (Special)
2402 Amends 2002 budget (Special)
2403 Amends 2002 budget (Special)
2404 Amends Ch. 10.04, animal control (10.04)
2405 Amends 2002 budget (Special)
2406 Adds Ch. 18.10, procedures for legislative actions (18.10)
2407 Street vacation (Special)
2408 Retainage bonds (3.100)
2409 Adds § 9.20.015; amends §§ 9.20.010, 9.20.020, 9.20.070, 9.20.090 and 9.20.120, fireworks (9.20)
2410 Amends §§ 19.08.030, 19.08.050, 19.08.060, 19.08.070 and 19.08.080, zoning (19.08)
2411 Amends §§ 19.26.020 and 19.26.030, density incentives (19.26)
2412 Amends § 19.16.090, landscape buffers (19.16)
2413 Amends § 19.12.030, zoning (19.12)
2414 Amends §§ 19.28.020 and 19.28.070, clearing and grading permit (19.28)
2415 Amends § 19.34.020, accessory dwelling units (19.34)
2416 Amends § 19.43.020, wireless facilities (19.43)
2417 Adds §§ 19.06.087, 19.06.201 and 19.06.451; amends § 19.06.580, zoning (19.06)
2418 Adds § 19.18.095; amends § 19.18.090, parking (19.18)
2419 Amends §§ 19.06.263 and 19.06.328, zoning (19.06)
2420 Amends § 20.24.070, landscaping (20.24)
2421 Amends § 19.20.200(3)(d), zoning (19.20)
2422 Amends § 19.14.160, fences (19.14)
2423 Adds § 19.14.095, zoning (19.14)
2424 Adds § 19.38.150, mobile home parks (19.38)
2425 Amends § 19.14.080, zoning (Repealed by 2572)
2426 Adds § 19.32.030, zoning (19.32)
2427 Amends § 19.22.030, zoning (19.22)
2428 Condemnation, appropriation of property (Special)
2429 Adds § 11.04.035, speed limits (11.04)
2430 Police Corps (2.49)
2431 Condemnation, appropriation of property (Special)
2432 Amends comprehensive plan (Special)
2433 Amends § 19.08.030(1), zoning (19.08)
2434 Adds § 19.14.095, subdivision screening (20.24)
2435 Amends § 20.12.020(3), subdivisions (20.12)
2436 Extends cable franchise agreements (Special)
2437 Amends § 5.02.030, business licenses (5.02)
2438 Rezone (Special)
2439 Repeals § 3.64.050, utilities tax (Repealer)
2440 Amends §§ 3.92.020 and 3.92.030, gambling tax (3.92)
2441 Repeals § 1.16.070(3), public records (1.16)

2442 Amends § 3.92.040, gambling tax (3.92)
2443 Amends § 5.96.010, body studios (5.96)
2444 Amends § 19.06.060, body shampoo parlors (19.06)
2445 Amends § 19.06.023, adult panorams (19.06)
2446 Amends § 19.06.018, adult drive-in theaters (19.06)
2447 Amends § 19.06.015, adult cabarets (19.06)
2448 Amends § 5.88.010(2), bikini clubs (5.88)
2449 Amends §§ 5.80.010(1), (2) and (4), adult establishments (5.80)
2450 Amends § 5.84.010(1), adult panorams (5.84)
2451 Amends § 5.92.010(1), bath houses, body shampoo parlors and tattoo parlors (5.92)
2452 Adds § 19.06.496 and Ch. 19.55; amends § 19.08.100, zoning (19.06, 19.08, 19.55)
2453 Adds §§ 19.06.429 and 19.06.441; amends § 19.54.050, zoning (19.06, 19.54)
2454 2003 tax levy (Special)
2455 Authorizes increase in 2003 tax levy (Special)
2456 Adopts 2003 budget (Special)
2457 Amends §§ 14.07.060 and 14.07.070, water and sewer rates (14.07)
2458 Amends § 11.62.010, truck routes (11.62)
2459 Rezone (Special)
2460 Amends 2002 budget (Special)
2461 Amends Ord. 2454, property tax levy (Special)
2462 Annexation (Special)
2463 Amends 2003 budget (Special)
2463A Amends § 19.08.030, zoning (19.08)
2464 Amends § 19.12.140; repeals § 19.12.230, setbacks (19.12)
2465 Adds § 20.80.025; amends § 20.80.020, boundary line adjustments (20.80)
2466 Amends §§ 16.32.110 and 16.32.160, floodplain management (16.32)
2467 Moratorium on opiate substitution treatment program facilities (Repealed by 2488)
2468 Amends comprehensive plan (Special)
2469 Amends comprehensive plan (Special)
2470 Amends comprehensive plan (Special)
2471 Amends §§ 18C.06.010 and 18C.10.020, school impact fees (18C.06, 18C.10)
2472 Amends § 11.62.020, truck routes (11.62)
2473 Amends 2002 budget (Special)
2474 Condemnation, appropriation of property (Special)
2475 Adds Ch. 2.51, salary commission (2.51)
2476 Repeals and replaces Ch. 14.15, on-site storm water drainage code (14.15)
2477 Amends Ch. 6.79, burglar alarms (6.79)
2478 Authorizes issuance of general obligation bonds (Special)
2479 Condemnation, appropriation of property (Special)
2480 Amends §§ 19.16.080 and 19.16.090, landscaping development standards (19.16)
2481 Adds § 19.26.040; amends § 19.26.030, residential density incentives (19.26)
2482 Condemnation, appropriation of property (Special)
2483 Amends § 2.04.010(1), council meetings (2.04)
2484 Authorizes issuance of general obligation bonds (Special)
2485 Adopts surface water management plan (Special)
2486 Adopts surface water utility rates (14.19)
2487 Amends comprehensive plan (Special)
2488 Adds § 19.06.364; amends §§ 19.08.100 and 19.55.010; repeals Ord. 2467, zoning (19.06, 19.08, 19.55)
2489 Repeals and replaces Ch. 5.68, cable system regulations (5.70)
2490 Establishes cable operator customer service standards (5.71)
2491 Rezone (Special)
2492 Cable service franchise grant to Comcast (Special)
2493 Adopts surface water utility rates; amends Ord. 2486 (14.19)
2494 Amends 2003 budget (Special)
2495 Amends comprehensive plan (Special)
2496 Amends comprehensive plan (Special)
2497 Rezone (Special)
2498 Property tax levy increase (Special)
2499 2004 tax levy (Special)
2500 Adopts 2004 budget (Special)
2501 Adds § 11.04.033, traffic code (11.04)
2502 Adopts parks and recreation department fee schedules; repeals Ord. 2299 (Special)
2503 Amends 2003 budget (Special)
2504 Amends 2004 budget (Special)
2505 Annexation (Special)
2506 Amends § 2.60.030, fire department (2.60)
2507 Amends Ch. 2.10, cable television advisory committee (2.10)
2508 Amends comprehensive plan (Special)
2509 Combines surface water utility with waterworks utility (14.19)
2510 Annexation (Special)
2511 Water and sewer revenue bond issuance (Special)
2512 Adds §§ 19.06.316, 19.06.454, 19.06.454(a) [19.06.455] and 19.06.479; amends §§ 15.03.020, 15.03.040, 15.03.050, 15.09.020, and 15.09.030, site plans and master plans (15.03, 15.09, 19.06)
2513 Amends § 7.08.065, garbage collection (7.08)
2514 Adds § 2.45.020, jail booking fees (2.45)
2515 Annexation (Special)
2516 Annexation (Special)
2517 Amends § 3.51.020, petty cash/change fund (3.51)
2518 Rezone (Special)
2519 Rezone (Special)
2520 Rezone (Special)
2521 Rezone (Special)
2522 Condemnation, appropriation of property (Special)
2523 Amends Chs. 16.04, 16.08 and 16.28, building codes (16.04, 16.08, 16.28)
2524 Amends 2004 budget (Special)

2525 Amends § 15.07.010, development application notice (15.07)
2526 Amends §§ 19.02.070, 19.02.080(5), 19.04.220, 19.06.340, 19.08.040, 19.08.060, 19.08.070, 19.08.100, 19.12.060, 19.12.090, 19.18.160, 19.22.030, 19.26.030, 19.37.030, 19.37.040, 19.44.030 and 19.44.040; repeals § 19.04.200, zoning (19.02, 19.04, 19.06, 19.08, 19.12, 19.18, 19.22, 19.26, 19.37, 19.44)
2527 Amends §§ 20.12.120, 20.24.070, 20.24.160 and 20.48.050; repeals § 20.24.290, subdivisions (20.12, 20.24, 20.48)
2528 Amends Ch. 2.10, cable television advisory committee (2.10)
2529 Amends § 9.20.020, date and time limits for sale or discharge of consumer fireworks (9.20)
2530 Bond issuance (Special)
2531 Amends §§ 14.05.020 and 14.07.070, sanitary sewers (14.05, 14.07)
2532 Amends Ch. 9.04, fire code (9.04)
2533 Adds §§ 3.64.170, 3.64.180 and 3.64.190, utilities tax (3.64)
2534 Annexation (Special)
2535 Amends 2004 budget (Special)
2536 Annexation (Special)
2537 Rezone (Special)
2538 Amends comprehensive plan and map (Special)
2539 Amends § 12.02A.090(5), street frontage improvements (12.02A)
2540 Amends Ch. 7.08, garbage collection (7.08)
2541 Amends Ch. 3.80, technology infrastructure fund (3.80)
2542 Amends § 14.07.010(2), sewer and water utility capital improvements (Repealed by 2556)
2543 Adopts 2005 budget (Special)
2544 Adds Ch. 11.14, motorized scooters (11.14)
2545 EMS property tax levy (Special)
2546 2005 property tax levy (Special)
2547 Amends § 12.02A.090(5), street frontage improvements (12.02A)
2548 Amends §§ 14.07.060 and 14.07.070, water and sewers (14.07)
2549 Adds Ch. 3.63, utility rate relief for low income senior citizens and disabled persons (3.63)
2550 Repeals §§ 2.20.070 and 2.20.080 (Repealer)
2551 Amends § 2.08.010, library board (2.08)
2552 Adds § 14.18.110, Marysville area regional storm water ponds and conveyance systems (14.18)
2553 Amends 2004 budget (Special)
2554 Amends § 14.07.005, general fee structure; repeals § 14.07.005A (14.07)
2555 Adds Ch. 15.12, development fees; repeals § 19.60.020 (15.12)
2556 Amends § 14.07.010(2), sewer and water utility capital improvements; repeals Ord. 2542 (14.07)
2557 Amends §§ 14.03.090(1) and 14.07.010(1), water and sewers (14.03, 14.07)
2558 Amends Ord. 2334, condemnation and appropriation of property (Special)
2559 Amends §§ 2.50.040 and 2.50.050, personnel code for city employees (2.50)
2560 Rezone decision affirmed (Special)
2561 Annexation (Special)
2562 Amends Ch. 5.26, prohibited gambling activities (5.26)
2563 Amends § 11.04.033, traffic code (11.04)
2564 Amends § 15.12.010, development fees (15.12)
2565 Amends § 11.04.030, traffic code (11.04)
2566 Amends § 5.02.070(1), business licenses (5.02)
2567 Amends Ord. 2511, water and sewer revenue bond issuance (Special)
2568 Street vacation (Special)
2569 Repeals and adopts comprehensive plan (Special)
2570 Amends zoning map (Special)
2571 Adds §§ 19.06.112, 19.06.271, 19.06.369 and 19.06.384; amends §§ 19.06.123, 19.06.410, 19.06.470, 19.06.498, 19.06.543 and Ch. 19.24; repeals §§ 19.06.408 and 19.06.413, zoning (19.06, 19.24)
2572 Repeals and replaces §§ 19.14.010, 19.14.020, 19.14.050, 19.14.060, 19.14.080 and 19.14.090; repeals § 19.14.085, zoning (19.14)
2573 Amends Chs. 18B.04, 18B.06, 18B.08, 18B.10, 18B.12, 18B.14, 18B.20 and 18B.22, traffic impact fees and mitigation (18B.04, 18B.06, 18B.08, 18B.10, 18B.12, 18B.14, 18B.20, 18B.22)
2574 Establishes traffic impact fee exemption (18B.14)
2575 Adds §§ 19.06.499 and 19.18.115; amends §§ 19.02.070, 19.08.030 and 19.12.040, zoning (19.02, 19.06, 19.08, 19.12, 19.18)
2576 Amends 2005 budget (Special)
2577 Annexation (Special)
2578 Amends zoning map (Special)
2579 Amends Ord. 2549 and § 3.63.040, utility rate relief for low income senior citizens and disabled persons (3.63)
2580 Amends Ord. 2566 and § 5.02.070(1), business licenses (5.02)
2581 Annexation (Special)
2582 Condemnation, appropriation of property (Special)
2583 Bonds (Special)
2584 Annexation (Special)
2585 Annexation (Special)
2586 Annexation (Special)
2587 Amends 2005 budget (Special)
2588 Rezone (Special)
2589 Street vacation (Special)
2590 Amends § 2.20.030, parks and recreation board (2.20)
2591 Amends §§ 3.92.010 and 3.92.190, gambling activities tax (3.92)
2592 Annexation (Special)
2593 Annexation (Special)
2594 Amends § 2.51.040(1), salary commission duties (2.51)
2595 Annexation (Special)

2596 Speed limits (Pending WSDOT approval)
2597 Rezone (Special)
2598 Adds § 14.05.090, fees for utility search services (14.05)
2599 Annexation (Special)
2600 Amends §§ 10.04.100, 10.04.120 and 10.04.150, animal control (10.04)
2601 Amends 2005 budget (Special)

– A –

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– B –

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