MARYSVILLE
MUNICIPAL
CODE

A Codification of the General Ordinances

of the City of Marysville, Washington

Codified, Indexed, and Published by

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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 2989, passed January 12, 2015.

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1.04 Publication of Ordinances
1.12 Classification of City

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ADOPTION OF MUNICIPAL CODE

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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).

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
2.30 City Clerk
2.32 Public Works Director
2.34 Chief Administrative Officer
2.35 Finance Director
2.45 Jail/Detention Facilities
2.48 Police Department
2.49 Police Corps
2.50 Personnel Code for City Employees
2.51 Salary Commission
2.52 City Employees – Federal Old Age and Survivors Insurance
2.56 City Employees – Retirement – State System
2.60 Fire Department
2.80 Code of Ethics
2.84 Legal Action Against City Officials and Employees
2.88 Disability Board
2.92 Citizen Advisory Committee for Housing and Community Development

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 City Hall, 1049 State Avenue, Marysville, Washington; provided, that the city council may adjourn from time to time to meet at any other publicly announced place. (Ord. 2891 § 1, 2012; 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 a representative of the Marysville School District;

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

(c) Four 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. 2628 § 1, 2006; Ord. 2614 § 1, 2006; 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 committee shall annually choose one of its members to serve as chairperson for a term of one year. 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 vote of those members present shall be necessary for the adoption or approval of any measure. The committee shall hold regular public meetings as necessary, and the notice of the time and place thereof shall be published as required by law and kept in the office of the city clerk. Special meetings shall be called at any time upon giving 24 hours' advance notice to each committee member and the press as required by law. 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. 2628 § 1, 2006; Ord. 2614 § 2, 2006; 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 Chapter 41.12 RCW, a civil service system for the police officers 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 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. 2961 § 1, 2014; Ord. 1255 § 1, 1982; Ord. 480 § 1, 1982).

2.16.020 Appointment and qualifications of civil service commission.

A civil service commission for the city police 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. Residence and eligibility to vote within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city. 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. 2961 § 1, 2014; Ord. 2819 § 1, 2010; 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 41.12.040. It shall adopt civil service rules and regulations which substantially accomplish the purposes of Chapter 41.12 RCW. The duty of the civil service commission to approve payrolls of police personnel is delegated to the city finance officer; provided, that the civil service commission shall retain the power to disapprove payroll disbursement to police personnel in cases where such personnel, or their appointment to the classified service, violate civil service rules and regulations. (Ord. 2961 § 1, 2014; 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, 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. 2961 § 1, 2014; 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 Chapter 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. 2961 § 1, 2014; 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.

2.20.010 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.
2.24.055 Municipal court commissioner – Qualifications – Appointment – Adoption of RCW 3.50.075 by reference.
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.

(1) 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.

(2) The position of a full-time municipal judge shall be filled by election for the term commencing on January 1, 2010, and every four years thereafter. The municipal judge shall be elected in the same manner as other elective city officials are elected to office. The term of the municipal judge shall be for four years. Nothing in this section shall limit the mayor's authority to fill the position of municipal judge pursuant to MMC 2.24.060.

(3) Additional Judges. Additional full- or part-time municipal judge positions may be filled when the public interest and the administration of justice make such additional judge or judges necessary, and so long as that procedure is in compliance with state statutes, such as RCW 3.50.055.

(4) On or before April 1, 2010, the mayor may appoint an additional part- or full-time judge for the term commencing January 1, 2010, and expiring December 31, 2013. Said additional judicial position shall be an elected position and shall be filled by election for any subsequent term.

(5) The elected position(s) of a full-time municipal judge shall be compensated at a rate equivalent to at least 95 percent, but not more than 100 percent, of a district court judge salary or, for a part-time judge, on a pro rata basis the same equivalent.

(6) A person elected or appointed as municipal judge shall be a citizen of the United States of America and of the state of Washington and a resident of Snohomish County, and an attorney admitted to practice law before the courts of record of the state of Washington. (Ord. 2817 § 1, 2010; Ord. 2621 § 1, 2006; 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).

2.24.055 Municipal court commissioner – Qualifications – Appointment – Adoption of RCW 3.50.075 by reference.

The provisions of RCW 3.50.075 are hereby adopted and incorporated by reference. (Ord. 2702 § 1, 2007).

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;

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(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 $40.00 per check shall be added to the defendant's fine or penalty. (Ord. 2759 § 1, 2008; 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. 2849 § 1, 2010; 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. 2849 § 1, 2010; 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 chief administrative officer, 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;

(5) 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. 2849 § 1, 2010; 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. 2849 § 1, 2010; 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. 2849 § 1, 2010; 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. 2849 § 1, 2010; 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. 2849 § 1, 2010; 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).

Chapter 2.45

JAIL/DETENTION FACILITIES

Sections:

2.45.010 State statutes adopted.
2.45.020 Jail/detention facility booking fees.

Article I. Custodial Care Standards for the Marysville Jail/Detention Facility

2.45.021 Physical plant standards.
2.45.022 Emergency suspension of custodial care standards.
2.45.023 General administration.
2.45.024 Training.
2.45.025 Records.
2.45.026 Emergency procedures.
2.45.027 Use of force.
2.45.028 Admissions.
2.45.029 Classification and segregation.
2.45.030 Release and transfer.
2.45.031 Staffing and surveillance.
2.45.032 Supervision and surveillance – Security devices.
2.45.033 Critical articles.
2.45.034 Rules of conduct.
2.45.035 Written procedures for medical services.
2.45.036 Access to health care.
2.45.037 Access to facilities.
2.45.038 Meals.
2.45.039 Visitation.
2.45.040 Mail.
2.45.041 Telephone usage.
2.45.042 Good time.
2.45.043 Sanitation.
2.45.044 Grievance.
2.45.050 Jail alternatives.

2.45.010 State statutes adopted.

Reserved. (Ord. 2859 § 1, 2011; Ord. 1589 § 1, 1988).

2.45.020 Jail/detention facility 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 charges 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/detention facility shall be $32.00. (Ord. 2859 § 1, 2011; Ord. 2514 §§ 2, 3, 2004).

Article I. Custodial Care Standards for the Marysville Jail/Detention Facility

2.45.021 Physical plant standards.

Holding facilities shall be secure. Such facilities shall have adequate lighting, heat, ventilation, and fire detection and suppression equipment. Each detention facility cell shall be equipped with a toilet, lavatory and drinking water facilities. A telephone shall be accessible. (Ord. 2859 § 1, 2011).

2.45.022 Emergency suspension of custodial care standards.

Nothing in these standards shall be construed to deny the power of the chief of police or his designee to temporarily suspend any standard herein prescribed in the event of an emergency which threatens the safety or security of any jail, prisoners, staff or the public. (Ord. 2859 § 1, 2011).

2.45.023 General administration.

There shall be written policies and procedures which shall be made available to each authorized person who is responsible for the confinement of a prisoner in the facility. The chief of police or his designee may establish a commissary program for inmate participation. (Ord. 2859 § 1, 2011).

2.45.024 Training.

All authorized persons responsible for the confinement of a prisoner shall receive an orientation to the policies and procedures of the facility relative to their duties. All custody officers shall complete a basic custody officer or equivalence course approved by the Washington State Criminal Justice Training Commission (CJTC) within the time specified by CJTC. On-the-job training shall be provided as deemed appropriate by the chief of police or his designee. (Ord. 2859 § 1, 2011).

2.45.025 Records.

If formal booking occurs in the facility, the information shall be recorded on a booking form. Any medical problems experienced by a prisoner while in the facility shall be recorded and such records maintained. Information concerning medical problems shall be transmitted at the time the prisoner is transported to another jail, hospital, or other facility.

(1) Prison population records shall be maintained by keeping a jail register for each holding facility.

(2) Written infraction and discipline records shall be maintained for all incidents which result in major property damage or bodily harm in accordance with state retention schedules and rules. (Ord. 2859 § 1, 2011).

2.45.026 Emergency procedures.

The emergency plan shall outline the responsibilities of department staff, evacuation procedures, and subsequent disposition of the prisoners after removal from the area or facility. All personnel should be trained in the emergency procedures. (Ord. 2859 § 1, 2011).

2.45.027 Use of force.

The chief of police or his designee shall establish and maintain written policies and procedures regarding the use of force and the use of deadly force. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force (lethal-nonlethal). While the use of physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use only the amount of force that is reasonable and necessary to overcome the resistance and to protect others or themselves from bodily harm and/or to effect an arrest. (Ord. 2859 § 1, 2011).

2.45.028 Admissions.

No prisoner shall be confined without proper legal authority.

(1) Each prisoner, within a reasonable period of time after completion of booking, shall be advised of his right to, and be allowed to complete, at least two local or collect calls to persons of his choice who may be able to come to his assistance. If the prisoner chooses not to place the calls allowed, this information shall be noted on the booking form; provided, that appropriate protection of access to an attorney shall be maintained for prisoners without funds.

(2) Reasonable provisions for communication with non-English-speaking, handicapped and illiterate prisoners shall be provided.

(3) The booking process shall be completed promptly unless extenuating circumstances necessitate delay.

(4) Search/Examination Guidelines. The chief of police or his designee shall establish and maintain written policies and procedures regarding pat searches, strip searches, and body cavity searches, which shall be consistent with this section. (Ord. 2859 § 1, 2011).

2.45.029 Classification and segregation.

The chief of police or his designee shall establish and maintain written policies and procedures regarding classification and segregation of inmates. (Ord. 2859 § 1, 2011).

2.45.030 Release and transfer.

The releasing officer shall determine prisoner identity and ascertain that there is legal authority for the release. Information required on the release forms shall be recorded for each prisoner released from the facility. All prisoners being released shall sign a receipt for personal property returned. (Ord. 2859 § 1, 2011).

2.45.031 Staffing and surveillance.

There shall be continual sight and/or sound surveillance of all prisoners. Such surveillance may be by remote means, provided there is the ability of staff to respond face-to-face to any prisoner within a reasonable time. (Ord. 2859 § 1, 2011).

2.45.032 Supervision and surveillance – Security devices.

Security devices shall be maintained in proper working condition at all times. (Ord. 2859 § 1, 2011).

2.45.033 Critical articles.

All holding facilities shall establish written procedures to ensure that weapons shall be inaccessible to prisoners at all times.

(1) Weapons are prohibited in the holding area. There shall be no firearms carried into the detention facility.

(2) The evacuation keys are located at the bottom of the staircase leading towards the patrol sergeant's office in a locked box. (Ord. 2859 § 1, 2011).

2.45.034 Rules of conduct.

Prisoners shall be informed of facility rules and regulations, if they are established. (Ord. 2859 § 1, 2011).

2.45.035 Written procedures for medical services.

Medical services shall be provided only by licensed or certified health care or emergency response providers. (Ord. 2859 § 1, 2011).

2.45.036 Access to health care.

Prisoner complaints of injury or illness, or staff observations of such shall be acted upon by staff as soon as reasonably possible. Prisoners shall be provided with medical diagnosis or treatment as necessary.

(1) Standard first-aid kits shall be conveniently available to all jails.

(2) A record of the date, time, place and name of the health care provider shall be retained on file at the jail if any health care services are provided to prisoners. (Ord. 2859 § 1, 2011).

2.45.037 Access to facilities.

Each prisoner shall have access to toilet, sink, drinking water, and adequate heat and ventilation.

(1) Prisoners shall be issued a clean blanket when appropriate. The blanket shall be washed at frequent intervals to maintain a clean condition, and always before reissue.

(2) The chief of police or his designee should allow confidential visits from business, educational and law enforcement professionals. (Ord. 2859 § 1, 2011).

2.45.038 Meals.

Jail meals shall be nutritious and provide for appropriate caloric intake. (Ord. 2859 § 1, 2011).

2.45.039 Visitation.

Visitation times for inmates will be set by the custody sergeants and subject to change without notice. Custody officers are responsible to regulate visitation, and inform visitors and inmates when to visit. Staff shall direct the visitor's attention to all of the conspicuously posted signs pertaining to visitation. (Ord. 2859 § 1, 2011).

2.45.040 Mail.

The chief of police or his designee shall establish a policy regarding inmate mail and correspondences. (Ord. 2859 § 1, 2011).

2.45.041 Telephone usage.

The chief of police or his designee shall establish and post rules which specify regular telephone usage times and maximum length of calls (not to be less than five minutes). (Ord. 2859 § 1, 2011).

2.45.042 Good time.

The chief of police or his designee should develop written policies regarding time off for good behavior. Such policies should ensure that good time, when authorized by sentencing courts, is given on a consistent basis, and in accordance with RCW 70.48.210. (Ord. 2859 § 1, 2011).

2.45.043 Sanitation.

(1) General Sanitation. The jail shall be kept in a clean and sanitary condition, free from any accumulation of dirt, filth, rubbish, garbage, or other matter detrimental to health.

(2) When the facility is occupied, the housekeeping program shall include a daily general sanitation inspection and daily removal of trash and garbage.

(3) Each prisoner shall clean his own living area daily.

(4) Insects and Rodents. Insects and rodents shall be eliminated by safe and effective means.

(5) Pets shall not be allowed in the jail.

(6) Laundry. There shall be adequate laundry services. (Ord. 2859 § 1, 2011).

2.45.044 Grievance.

The chief of police or his designee for each jail should develop and maintain procedures for the collection of prisoner grievances. Such procedures should provide for persons to whom grievances are to be directed, for timely review of grievances and for notification of action taken regarding the grievance. (Ord. 2859 § 1, 2011).

2.45.050 Jail alternatives.

(1) Authorizing Jail Alternatives. Inmates who have been sentenced by the court may apply for the following programs; provided, that the court has authorized and recognized the program as an approved alternative to jail for the particular inmate, the program is available and the inmate qualifies for the program:

Electronic Home Monitoring (EHM)
Community Service
Work Release
Inmate Worker Program
Day or Weekend Jail

(2) The chief of police or his designee shall establish and adopt policies and procedures for the programs listed in subsection (1) of this section, to be included in the Marysville Police Department Policies and Procedures. (Ord. 2895 § 1, 2012).

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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 custody officers, animal control officers and parking officers, but excluding the chief of police, managers, analysts, 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. 2766 § 1, 2009; 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 may 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 may 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) Limited commissions may be issued by the chief of police to the police department administrative division manager and intelligence analysts who are employed on a full-time, fully compensated basis. Said commissions shall authorize such persons to assist in the investigation and analysis of crimes pursuant to all laws of the city and criminal laws relating to the authority of law enforcement officers. Said commissions shall not authorize such persons to carry firearms or to effectuate any arrest for any violation. The commission authorized under this section shall not vest any person with any police civil service or police pension rights under federal, Washington State law or under any ordinance or regulation.

(5) Limited Commission – Code Enforcement Officers. The chief of police may issue limited commissions as code enforcement officers to department heads or supervisors and city employees designated by the chief administrative officer employed in the community development and public works departments as code enforcement officers. Such limited commission shall authorize such persons to initiate, issue and serve notice of civil infractions for violations of the Marysville Municipal Code in those areas for which their department is directly responsible. Said commissions shall not authorize such persons to carry firearms or effect any arrest for any violation. Said commission shall

not vest any person with any police civil service or police pension rights under federal, Washington State law or under any ordinance or regulation.

(6) Reserve commissions may 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.

(7) Special commissions may be issued to law enforcement officers of other jurisdictions pursuant to Chapter 10.93 RCW. (Ord. 2766 § 2, 2009; 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).

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.
2.50.090 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 be set by the salary commission as set forth in Chapter 2.51 MMC 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 meetings 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. 2630 § 1, 2006; Ord. 2613 § 1, 2006; 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 classes of expenditures described in subsections (2) and (3) of this section while in the performance of their official duties, subject to having received prior approval from the mayor or chief administrative officer.

(2) No payment shall be made for the expenditures described under this section unless the employee incurring the same submits itemized receipts of verification.

(3) Upon the effective date of the ordinance codified in this section, expenses for use of personally owned vehicles of employees or officers of the city in the course of official duties shall receive the mileage rate as approved by the United States Internal Revenue Service, subject to prior approval by the mayor or city administrator. (Ord. 2770 § 1, 2009; Ord. 2735 § 1, 2008; Ord. 2733 § 1, 2008; 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).

2.50.090 Use of city credit card.

City credit cards may be used by city officials and employees, subject to RCW 43.09.2855 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 mayor or his/her designee is authorized to establish credit card agreements, for issuance of credit cards to eligible users for purchase of items, products and services required for authorized city business purposes. The mayor or his/her designee shall adopt procedures to implement this section. Credit cards shall be distributed in a manner that is controlled and under approval of the mayor or his/her designee for any user that has a legitimate city business purpose and need for a card. In association with the card issuer, the mayor or his/her designee shall establish credit limits that establish controls on card use. The mayor or his/her designee shall authorize payment of credit card bills, establishing city procedures for the review, controls, and audits of such bills.

(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 purchase to be paid back to the city at a later date. Cash advances on credit cards are prohibited.

(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 expense voucher, to the city finance director 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 expense voucher, or which are disallowed by the finance director 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 director, chief administrative officer 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. 2825 § 1, 2010; 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 July 1st and September 30th commencing the year 2011, 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 and the effective date.

(2) Any increase or decrease in salary established by the commission shall become effective and incorporated into the city budget without further action of the city council or salary commission. Any change in the meeting reimbursement or salary amount may become effective immediately or as otherwise directed by the salary 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. 2862 §§ 1, 2, 2011; Ord. 2690 §§ 1, 2, 2007; Ord. 2630 § 2, 2006; 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).

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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 2.80

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, except such service, information or thing of value may be accepted in an amount not in excess of $50.00 from a single source per calendar year so long as it could not be reasonably expected that such service, information or thing of value would influence the vote, action, or judgment of the officer or employee, or be considered a reward for action or inaction. The value of gifts given to an official's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family or social relationship exists between the donor and the family member or guest;

(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 substantial 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. 2623 § 1, 2006; 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.

(b) Two active or retired law enforcement officer representatives.

(c) One member of the public who resides within the city of Marysville, to be appointed by the other members of the disability board who are eligible to vote.

(d) The human resources director shall serve as board secretary.

(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 one 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 thirty-first 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. 2960 § 1, 2014; 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).

Chapter 2.92

CITIZEN ADVISORY COMMITTEE FOR HOUSING AND COMMUNITY DEVELOPMENT

Sections:

2.92.010 Advisory committee established.
2.92.020 Membership and terms of office.
2.92.030 Committee organization.
2.92.040 Advisory duties and responsibilities.

2.92.010 Advisory committee established.

The citizen advisory committee for housing and community development is hereby established. The purpose of the committee is to act as an advisory board to city staff, the mayor and city council related to community development block grant (CDBG) plans and funding. (Ord. 2897 § 1, 2012).

2.92.020 Membership and terms of office.

(1) Membership. The citizen advisory committee for housing and community development shall consist of nine members who shall serve without compensation, each of whom shall be appointed by the mayor, subject to confirmation by the city council.

(2) Terms of Appointment. With respect to the members appointed and confirmed to serve on the committee, the following provisions shall apply:

(a) All members shall reside within the corporate limits of the city.

(b) Appointments shall reflect a balance of interests and should be equally proportionate and contain no more than:

(i) Four members shall represent the following communities, entities, or interests: business, educational, faith, charity, civic, low- and moderate-income persons, persons with disabilities, senior citizens, racially and ethnically diverse populations.

(ii) One member shall be a youth representative of high school age.

(iii) Two members shall be city council members.

(iv) One member shall be a representative of the Marysville planning commission.

(v) One member shall be a representative of the parks and recreation board.

(c) The terms of the members shall be as follows:

(i) Members appointed under subsection (2)(b)(i) of this section shall serve three-year terms;

(ii) The youth representative shall be appointed to at least a one-year term, but may be appointed to as much as a three-year term; and

(iii) The council, planning commission and parks and recreation board representatives shall be appointed to a one-year term.

(d) If a vacancy is created prior to the expiration of any member's term, the vacancy shall be filled by a person appointed by the mayor, subject to council confirmation. A person so appointed shall serve the remainder of the unexpired term.

(e) The mayor may remove any committee member from office whenever it is deemed to be in the public interest. (Ord. 2897 § 1, 2012).

2.92.030 Committee organization.

The citizen advisory committee for housing and community development shall annually elect one of its members to serve as chairperson. Each of the members shall have one vote in all business coming before the committee. Five members shall constitute a quorum for the transaction of business. A majority vote of those members present shall be necessary for the adoption or approval of any recommendation. The mayor shall appoint staff to assist the committee in the preparation of those reports and records as are necessary for the proper operation of the committee. The committee shall hold public meetings as necessary, and the notice of the time and place thereof shall be published as required by law and kept in the office of the city clerk. (Ord. 2897 § 1, 2012).

2.92.040 Advisory duties and responsibilities.

The citizen advisory committee for housing and community development shall have the following advisory duties and responsibilities:

(1) Evaluation and recommendation of a consolidated plan, and amendments thereto;

(2) Evaluation and recommendation of an annual action plan, and amendments thereto;

(3) Evaluation and recommendation on funding requests submitted to the city;

(4) Review of program performance reports; and

(5) Perform such other duties as may be requested by the mayor and city council. (Ord. 2897 § 1, 2012).

Title 3

REVENUE AND FINANCE[1]

Chapters:

3.04 Biennial Budget
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 LID Hearing Process
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
3.85 Central Marysville Annexation Sales and Use Tax
3.86 Admissions Tax
3.87 Natural Gas 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
3.95A Recovery of Costs for Convicted Persons
3.96 Donations, Devises or Bequests
3.97 Drug Enforcement Fund
3.98 Bond and Obligation Registration

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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.

3.99 Ken Baxter Senior/Community Center Appreciation Fund
3.100 Retainage Bonds
3.101 Crime Prevention Funding
3.103 Multifamily Housing Property Tax Exemption

Chapter 3.04

BIENNIAL BUDGET

Sections:

3.04.010 Establishment of biennial budget.
3.04.020 Budget process.
3.04.030 Prior acts.
3.04.040 References to "budget" or "annual budget."

3.04.010 Establishment of biennial budget.

Pursuant to Chapter 35A.34 RCW, beginning with the biennium starting January 1, 2015, there is hereby established a biennial budget, with two one-year budgets. Beginning with the biennium starting January 1, 2017, and/or all subsequent bienniums there shall be one budget covering a two-year period for the city of Marysville. The 2015-2016 biennial budget and all subsequent budgets shall be prepared, considered, and adopted pursuant to the provisions of this chapter and Chapter 35A.34 RCW. (Ord. 2958 § 1, 2014).

3.04.020 Budget process.

Pursuant to RCW 35A.34.130, the city council hereby provides for a mid-biennial review and modification of the biennial budget, no sooner than eight months after the start of the first year of the fiscal biennium, nor later than the conclusion of the first year of the biennium. The mayor shall prepare a proposed budget or budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city ordinances. Such proposal shall be filed with the city clerk and be submitted to the city council and shall be a public record and be available to the public. A public hearing shall be advertised at least once and shall be held no later than the first regular council meeting in December and may be continued from time to time. At such a hearing or thereafter, the council may consider a proposed ordinance to carry out such budget or modifications. Such ordinance shall be subject to other provisions of Chapter 35A.34 RCW. (Ord. 2958 § 2, 2014).

3.04.030 Prior acts.

Acts pursuant to the ordinance codified in this chapter, but prior to its passage or effective date, are hereby ratified and confirmed. (Ord. 2958 § 3, 2014).

3.04.040 References to "budget" or "annual budget."

All references to "budget" or "annual budget" contained in the Marysville Municipal Code or in the ordinances of the city of Marysville shall be interpreted as referring to the "biennial budget." (Ord. 2958 § 4, 2014).

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 22D.010 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 22D.010 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.

3.16.010 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 provided for by Chapter 35.54 RCW, the payment of its local improvement bonds and warrants or other short-term obligations issued to pay for any local improvement orders. The local improvement guaranty fund established under this section shall not be subject to any claim by the owner or holder of any local improvement bond, warrant, or other short-term obligation issued under an ordinance that provides that such obligations shall not be secured by the local improvement guaranty fund. (Ord. 2937 § 1, 2013; Ord. 253 § 1, 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 14.19 MMC shall be deposited in the surface water utility fund.

(2) All surface water utility service charges collected by the city pursuant to Chapter 14.19 MMC shall be deposited in the surface water utility fund. (Ord. 2782 § 2, 2009; 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).

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).

1. Prior legislation: Ords. 537 and 538.

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." Four thousand two hundred dollars is authorized for the petty cash fund. (Ord. 2730 § 1, 2007; 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) Two hundred dollars shall be used by the city's public works department as a petty cash fund;

(7) Two hundred dollars shall be used by the city's department of community development, $100.00 as a petty cash fund and $100.00 as a change fund;

(8) 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;

(9) 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. 2871 § 1, 2011; Ord. 2730 § 1, 2007; Ord. 2517 § 1, 2004; Ord. 2398 §§ 1, 2, 2001; Ord. 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).

1. Prior legislation: Ords. 918 and 1321.

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 public works director is designated as the custodian of the public works petty cash fund.

(6) The community development director is designated as the custodian of the community development department petty cash fund.

(7) The golf course superintendent is designated as the custodian of the Cedarcrest Golf Course change and petty cash fund. (Ord. 2730 § 1, 2007; 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 LID HEARING PROCESS

Sections:

3.60.010 Local improvements.
3.60.115 Time of payment – Interest – Penalties.
3.60.140 Segregation of assessments.
3.60.150 Foreclosure of delinquent assessments.
3.60.170 Acceleration of installments – Attorney's fees.
3.60.220 LID hearing process.

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. 2937 § 2, 2013; Ord. 1275 § 1, 1983; Ord. 818 § 1, 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. 2937 § 2, 2013; Ord. 1308 § 2, 1983).

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. 2937 § 2, 2013; 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. 2937 § 2, 2013; Ord. 1275 § 3, 1983).

3.60.170 Acceleration of installments – Attorney's fees.

When any local improvement district or utility local improvement district assessment is payable in installments, upon failure to pay any installment due, the assessment shall become immediately due and payable, and the collection thereof shall be enforced by foreclosure. (Ord. 2937 § 2, 2013; Ord. 1275 § 3, 1983).

3.60.220 LID hearing process.

(1) In accordance with RCW 35.44.070, the city council may designate an LID hearing examiner or other officer ("LID hearing examiner") to conduct the public hearing required for the final assessment roll for any local improvement district of the city. In the resolution setting the date, time and place for the public hearing, the city council may establish guidelines for the LID hearing examiner, including a schedule for submitting his or her recommendations to the city council and other matters as may be consistent with state law governing the confirmation of an assessment roll. The LID hearing examiner may establish procedures for conduct of such hearing consistent with state law and the Marysville Municipal Code.

(2) Following an assessment roll hearing, the LID hearing examiner shall file a written report (including findings and recommendations) with the city clerk within a period to be specified by the city council. Within five business days of receiving such report, the city clerk shall mail notice that the

report has been filed to any person who filed a request for special notice of the report or written protest at or prior to the public hearing on the assessment roll in accordance with RCW 35.44.080. A copy of the LID hearing examiner's report will be available to the public in the office of the city clerk.

(3) If the council designates an LID hearing examiner to conduct the public hearing on an assessment roll, the following procedures are established for an appeal to the city council by any person protesting a finding or recommendation made by the LID hearing examiner regarding the assessment roll:

(a) An appeal may be filed only by a party who timely submitted a written protest to the assessment roll at or prior to the assessment roll hearing. The notice of appeal shall state clearly (i) the number of the local improvement district, (ii) the appellant's name, address, LID parcel number and the name and address of the appellant's attorney or other agent, if any, (iii) the recommendation being appealed, (iv) the error of fact, law, or procedure alleged to have been made by the hearing examiner and the effect of the alleged error on the recommendation, and (v) the redress sought by the appellant. The notice of appeal shall be filed with the city clerk, together with a fee of $100.00, no later than the fourteenth day after the day upon which the report of the hearing examiner is mailed by the city clerk.

(b) Upon the filing of a notice of appeal, the city clerk shall promptly notify the city attorney and furnish a copy of the notice to the city council and the LID hearing examiner. Within 14 days following the last date for filing of a notice of appeal, the city council shall set a time and place for a hearing on the appeal(s), provided the time shall be as soon as practicable in order to avoid accumulating additional interest on any obligations of the local improvement district. The city clerk shall promptly mail notice to the appellant of the time and place for the hearing on the appeal.

(c) Review by the city council on appeal shall be limited to and shall be based solely on the record from the public hearing; provided, however, that the city council may permit oral or written arguments or comments when confined to the content of the record of the hearing below. No new evidence may be presented. Written arguments shall not be considered unless filed with the city council at least two business days prior to the hearing on appeal, and the city council may determine the appeal on the record, with or without argument.

(d) In respect to the matter appealed, the city council may adopt or reject, in whole or in part, the findings and recommendations of the LID hearing examiner or officer or make such other disposition of the matter as is authorized by RCW 35.44.100. The city council shall reduce its determination to writing, file the original in the record of the local improvement district, and transmit a copy of the same to the appellant. No ordinance confirming an assessment roll may be enacted by the city council until the city council rules on all appeals. Upon ruling on all appeals, the city council shall confirm the assessment roll by ordinance.

(e) Any appeal from a decision of the city council regarding any assessment may be made to the superior court within the time and in the manner provided by law. (Ord. 2937 § 2, 2013).

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 (*effective until February 29, 2016*).
3.64.020 Telephone business (*effective March 1, 2016*).
3.64.030 Sale of gases.
3.64.040 Sale of electricity.
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, subpoena power, and agreements.
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 *(effective until February 29, 2016)*.[1]

(1) Upon any telephone business there is levied a tax equal to six 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, microwave, radio or similar communication or transmission system, including cellular telephone service. 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 related to that equipment or apparatus, such as repair or maintenance 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. Transmission of communications through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

(4) "Cellular telephone service" means the two-way voice and data telephone/telecommunication system based in whole or substantially in part on wireless radio communications and which is not currently subject to regulation by the Washington Utilities and Transportation Commission (WUTC). Cellular telephone service includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS) and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service. (Ord. 2974 § 1, 2014; Ord. 2861 §§ 1, 2, 3, 2011; Ord. 1975 § 1, 1993; Ord. 1740 §§ 1, 2, 1989; Ord. 1754 § 1, 1990; Ord. 1214, 1981; Ord. 1209, 1981; Ord. 882 § 2, 1975).

1. Code reviser's note: Section 2 of Ord. 2974 provides, "This ordinance shall take effect on March 1, 2015, and shall automatically expire and be repealed February 29, 2016."

3.64.020 Telephone business *(effective March 1, 2016)*.

(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, microwave, radio or similar communication or transmission system, including cellular telephone service. 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 related to that equipment or apparatus, such as repair or maintenance 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. Transmission of communications through cellular telephones is classified as "telephone business" rather than "competitive telephone service."

(4) "Cellular telephone service" means the two-way voice and data telephone/telecommunication system based in whole or substantially in part on wireless radio communications and which is not currently subject to regulation by the Washington Utilities and Transportation Commission (WUTC). Cellular telephone service includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS) and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service. (Ord. 2861 §§ 1, 2, 3, 2011; 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).

3.64.060 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 22G.060 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 22G.060 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, subpoena power, and agreements.

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 fails to make a return as required by law. If taxpayer does not make records available for inspection or audit at reasonable times, or to facilitate inspection and audit, the finance director is hereby authorized to issue a subpoena to secure access to and inspection of the records, to recover records, or to secure testimony, and to take such actions necessary to enforce such subpoena, including commencement of an action in court. The finance director is also authorized to enter into an agreement with a taxpayer as necessary to secure inspection and audit, provided such agreement shall be consistent with all requirements of federal and state law, including the Public Records Act of the state of Washington and all laws of the state of Washington concerning the archiving of public documents. (Ord. 2718 § 1, 2007; 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.[1]

There is levied and there shall be collected from the water and sewer department of the city a tax in the amount of eight and one-half 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. 2885 § 1, 2012; Ord. 2840 § 1, 2010; 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).

1. Code reviser's note: Section 2 of Ordinance 2885 provides, "This ordinance shall be reviewed by the City Council every two years from the effective date hereof. This ordinance shall automatically terminate without further action of the City Council six (6) years from the effective date hereof and the gross receipts tax rate shall reset to six percent and one half percent (6 1/2%)."

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 15 percent of the gross receipts of the customer accounts in such department. (Ord. 2778 § 1, 2009; 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[1]

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 eight and one-half percent of the gross receipts of the customer accounts in such department. (Ord. 2884 § 1, 2012; 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).

1. Code reviser's note: Section 2 of Ordinance 2884 provides, "This ordinance shall be reviewed by the City Council every two years from the effective date hereof. This ordinance shall automatically terminate without further action of the City Council six (6) years from the effective date hereof and the gross receipts tax rate shall reset to six percent (6%)."

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.

3.80.010 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).

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.

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 3.85

CENTRAL MARYSVILLE ANNEXATION SALES AND USE TAX

Sections:

3.85.010 Imposition.
3.85.020 Continuation of sales and use tax under authority of RCW 82.14.415 and MMC 3.85.010.
3.85.030 Certification of costs to provide municipal services to Central Marysville annexation area.
3.85.040 Threshold amount.

3.85.010 Imposition.

Pursuant to RCW 82.14.415, the city council determines that the anticipated revenues from the Central Marysville annexed area are estimated to be $7,988,398, which results in a threshold difference in the initial blended year of annexation to serve the area in the amount of $3,017,793, and to assist the city in providing services to the area within the annexation there shall be imposed a tax rate, per RCW 82.14.415, equal to 0.1 percent if the annexation area population is between 10,000 and 20,000 people or 0.2 percent if the annexation population is over 20,000 people. Pursuant to RCW 82.14.415, this tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under Chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city of Marysville. All revenue collected under this section shall be used solely to provide, maintain and operate municipal services for the annexation area. The effective date of this tax rate will be July 1, 2010. (Ord. 2799 § 1, 2009).

3.85.020 Continuation of sales and use tax under authority of RCW 82.14.415 and MMC 3.85.010.

The continuation of the sales and use tax for the Central Marysville annexation area as previously authorized and imposed pursuant to RCW 82.14.415 and MMC 3.85.010 at a tax rate of 0.2 percent is hereby authorized and renewed for 2015. (Ord. 2978 § 1, 2014; Ord. 2947 § 1, 2013; Ord. 2917 § 1, 2013; Ord. 2889 § 1, 2012; Ord. 2853 § 1, 2011).

3.85.030 Certification of costs to provide municipal services to Central Marysville annexation area.

In accordance with RCW 82.14.415(9), it is hereby certified that the costs to provide municipal services to the Central Marysville annexation area fiscal year 2015 is $13,988,782. (Ord. 2978 § 2, 2014; Ord. 2947 § 2, 2013; Ord. 2917 § 2, 2013; Ord. 2889 § 2, 2012; Ord. 2853 § 2, 2011).

3.85.040 Threshold amount.

The threshold amount for the Central Marysville annexation area for fiscal year 2015 for imposing the sales and use tax credit under RCW 82.14.415 is $3,175,265. (Ord. 2978 § 3, 2014; Ord. 2947 § 3, 2013; Ord. 2917 § 3, 2013; Ord. 2889 § 3, 2012; Ord. 2853 § 3, 2011).

Chapter 3.86

ADMISSIONS TAX

Sections:

3.86.010 Definitions.
3.86.020 Certificate of registration.
3.86.030 Tax levied.
3.86.040 Business license required.
3.86.050 Exemptions.
3.86.060 Counting number of admissions.
3.86.070 Printing admission charges.
3.86.075 Unlawful sales of tickets in excess of price.
3.86.080 Posting admission charge.
3.86.090 Tickets sold elsewhere than regular ticket office.
3.86.100 Collection and remittance.
3.86.110 Penalty for late payment.
3.86.120 Transient business remittance.
3.86.130 Overpayment of admissions tax.
3.86.140 Inspection of records.
3.86.150 Violator – Violations.
3.86.160 Penalty for violation.

3.86.010 Definitions.

(1) "Admissions charge," in addition to its usual and ordinary meaning, includes but is not limited in meaning to:

(a) A charge for season tickets or subscriptions;

(b) Required "donation";

(c) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;

(d) A charge made for food and refreshment in any place where free entertainment, recreation or amusement is provided;

(e) Cover charges to night clubs, lounges, private clubs, or similar places;

(f) Admission to any theater, indoor or outdoor amusement park. For admission to any carnival, or indoor or outdoor amusement park, the admission tax shall be imposed upon admission to such carnivals or amusement parks. However, the city will not impose an additional tax upon admissions to any mechanical devices, amusement type booths or activities and/or rides such as merry-go-rounds, ferris wheels, etc., within said carnival or park unless there is no admission charge "at the gate" for such events. Then the person conducting the event is required to collect a tax for the admission to the various rides;

(g) Where an admission is required to be paid to gain entrance to any building, enclosure, place or area in which there is a for-profit professional or semi-professional sporting event. This tax shall be assessed on admission charges whether in the form of membership fee, season tickets or other charges for privilege of using or attending the event. The admissions tax shall apply to tickets sold by Marysville-based ticket sales outlets for local events only. Additionally, the tax shall also apply to ticket sales outlets which are not located in Marysville but are selling tickets for events in Marysville;

(h) There shall be levied an admission tax at the rate set forth in MMC 3.86.030 on the gross admission charge, whether in form of a membership fee or regular charge, for the privilege of playing golf, on golf courses, driving ranges and practice courses, applicable to both private and public facilities. Provided, however, the tax shall not apply to the cost for rental of equipment such as golf clubs or carts.

(2) "Fraternal" means an association or society of persons formed for mutual aid and benefit, but not for profit.

(3) "Government activities" means activities that are sponsored or conducted by other local governments, county, state or federal governments.

(4) "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock association, society, any group of individuals acting as a unit, whether mutual, cooperative or fraternal, or any nonprofit or not-for-profit corporation or organization as the term "nonprofit" is defined under the statutes of the state of Washington, RCW 82.04.365 and 82.04.366.

(5) "Religious organization" means an organization engaged in the practice of a particular faith or central beliefs.

(6) "Ticket sales outlet" means the location of any agency, person, group, etc., that is in charge of distributing, selling, or otherwise managing the sale of tickets and is collecting the fees for such tickets to any of the described events.

(7) "Transient" means temporary, short-lived, nonpermanent or nonlasting.

(8) "City-sponsored event" means any program or event provided by the city of Marysville or any of its departments.

(9) "City co-sponsored event" means an event which benefits the community and for which the city of Marysville and another entity share jointly the expenses and responsibilities of providing the event. For an event to be co-sponsored by the city, there must be a formal written agreement entered into between the city and the other entity or entities

sponsoring the event in which the city agrees to the co-sponsorship. A lease agreement from the city to another entity does not constitute co-sponsorship unless the lease specifically provides that it does.

(10) "Nonprofit organization" means an organization, corporation, or association organized and operated for the advancement, appreciation, public exhibition or performance, preservation, study and/or teaching of the performing arts, visual arts, history, science, or a public charity providing social or human services or public education and which is currently recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code, as now existing or hereafter amended. (Ord. 2811 § 1, 2009).

3.86.020 Certificate of registration.

(1) Every person, firm or corporation, prior to conducting or operating any event, or place of entrance, to which an admission charge is made, shall complete a certificate of registration and file the same with the finance director. The certificate of registration shall continue to be valid until December 31st of the same year in which it was issued. The application for certificate of registration, or a duplicate of it, shall be posted in the ticket office or box office where tickets or admission are sold.

(2) Whenever registration is made for the purpose of operating or conducting a temporary or transitory event by persons who are not the owners, lessees or custodians of the building, lots or place where the activity is to be conducted, both the person conducting the event and the owner, lessee or custodian shall be held jointly liable for collection and remittance of the said tax. The owner, lessee and/or custodian shall be responsible for the remittance of the entire admissions tax unless the tax is paid by the conductor of the event. (Ord. 2811 § 1, 2009).

3.86.030 Tax levied.

There is hereby levied and imposed upon every person without regard to age who pays an admission charge to any place as described in this chapter a tax of $0.01 for each $0.20, or fraction thereof, paid for the admission charge. Failure to pay such tax or failure to collect such tax shall be a violation of this chapter. (Ord. 2811 § 1, 2009).

3.86.040 Business license required.

In addition to any licenses and fees required under this chapter, every applicant shall also obtain a business license pursuant to MMC Title 5. (Ord. 2811 § 1, 2009).

3.86.050 Exemptions.

The following activities are exempt from the provisions of this chapter:

(1) Activities of elementary and secondary schools;

(2) Activities of churches and religious organizations;

(3) Government activities;

(4) City-sponsored and city co-sponsored events; provided, that for-profit activities conducted in conjunction with such an event shall not be exempt;

(5) Activities of nonprofit organizations, as defined in MMC 3.86.010(10); provided, that all of the following requirements are met:

(a) The nonprofit organization:

(i) Publicly sponsors and through its members, representatives or personnel promotes and publicizes the event; or

(ii) Publicly sponsors and:

(A) Performs a major portion of the performance; or

(B) Supplies a major portion of the materials on exhibit; or

(C) When the event is part of a season or series of performances or exhibitions, performs the major portion of the performances or exhibitions in the season or series or supplies a major portion of the materials on exhibit;

(b) The nonprofit organization receives the use and benefit of the admission charges collected;

(c) The proceeds from any single event sponsored by the nonprofit organization do not exceed $100,000;

(d) The event for which the exemption is claimed cannot be one for which a nonprofit organization lends its name as an endorsement to an ineligible person or organization for the purpose of invoking the exemption;

(e) The nonprofit organization must be registered with the finance director's office as provided in MMC 3.86.020 and must provide a copy of its incorporation approval by the state of Washington and any other proof deemed reasonably necessary by the finance director to verify that the organization meets the definition of "nonprofit organization" established by this chapter. (Ord. 2811 § 1, 2009).

3.86.060 Counting number of admissions.

Whenever a charge is made for admission to any place, a serially numbered or reserved seat ticket shall be furnished to the person paying such charge unless written approval has been obtained from the finance director to use a turnstile or other counting device which will accurately count the number of paid admissions. (Ord. 2811 § 1, 2009).

3.86.070 Printing admission charges.

(1) The established price of admission, any non-city tax, city tax, and the total price at which each admission ticket or card is sold, shall be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be retained by the management of the place to which admission is gained. This requirement may be waived in regard to temporary or transient events, which due to time make it impossible to print up admission tickets. This waiver must be reviewed and authorized by the finance director's office prior to authorizing the event.

(2) It is unlawful for any person to sell an admission ticket or card without having the name of the person conducting the event and the price of admission printed, stamped or written thereon. The admission tax due shall be based on the established price printed on each ticket. (Ord. 2811 § 1, 2009).

3.86.075 Unlawful sales of tickets in excess of price.

It is unlawful for anyone to sell or offer to sell an admission ticket or card at a price in excess of the price printed, stamped or written thereon. This section does not prohibit a ticket agent, duly authorized to sell tickets by the person or entity responsible for or in charge of conducting the subject event, from collecting a reasonable handling charge from the purchaser, in addition to the disclosed ticket price, consistent with general marketing practices in the Marysville area. The handling charge shall also be subject to tax in a sum equal to five percent of the amount of such excess or handling charge. (Ord. 2811 § 1, 2009).

3.86.080 Posting admission charge.

At all events, when a charge is made for admission a sign must be posted in a conspicuous place at its entrance or ticket office of the event which breaks down the admission charge as to (1) established price of admission, (2) non-city tax imposed, if any, (3) city tax imposed, and (4) total price. The name of the company or organization conducting the event shall also be posted at the same place. (Ord. 2811 § 1, 2009).

3.86.090 Tickets sold elsewhere than regular ticket office.

Whenever tickets are sold by a person outside of the city limits for an event located within the city limits, that person shall collect the admission tax imposed thereon. Whenever tickets or cards of admission are sold elsewhere than the ticket or box office of the place of event, any price or charge made in excess of the established price or charge at such ticket or box office shall also be taxable in a sum equal to five percent of the amount of such excess. This additional tax shall be paid by the person paying the admission charge and shall be collected and remitted in the manner provided in MMC 3.86.100 by the person selling such tickets. (Ord. 2811 § 1, 2009).

3.86.100 Collection and remittance.

(1) The person, firm or corporation receiving payment for admissions on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making payment for admission, shall hold said tax in trust until the same is remitted to the finance director as herein provided, and shall be personally liable for the amount of such tax if the same is not collected and remitted as herein provided; provided, however, that for temporary or transient events, the owner, custodian, etc., may be responsible for the payment of the tax per MMC 3.86.020 and this section.

(2) The tax imposed by this chapter shall be due and payable on a quarterly basis and remittance therefor shall accompany each return and be in the finance director's office by 5:00 p.m. P.S.T. on or before the last day of each April, July, October and January, by the person, firm or corporation collecting the same; provided, the finance director for good cause may require the return and remittance of the admissions tax immediately upon its collection or at the conclusion of the series of performances or exhibitions, or otherwise as the finance director deems appropriate. The quarterly returns shall be made on forms provided by the finance director, separately stating the number of admissions sold, the price for each admission, and the amount of tax, shall be signed and verified by the person making the return, and shall contain such other information as the finance director may specify. (Ord. 2811 § 1, 2009).

3.86.110 Penalty for late payment.

(1) For each payment due, if such payment is not made by 5:00 p.m. on the due date, there shall be added penalties as follows:

(a) One to 15 days' delinquency, 10 percent with a minimum penalty of $10.00;

(b) After 15 days' delinquency, 15 percent with a minimum penalty of $10.00 shall be imposed.

(2) Failure to pay tax is a violation of this chapter and may be punished as such in addition to the late fees imposed. (Ord. 2811 § 1, 2009).

3.86.120 Transient business remittance.

Whenever any activity subject to the tax imposed herein makes an admission charge and the same is of a temporary or transitory nature, of which the finance director shall be the judge, the finance director may require the return and remittance of the admissions tax immediately upon its collection or at the conclusion of the taxable activity or otherwise as the finance director deems appropriate. An application for a certificate of registration shall be required as noted in MMC 3.86.020. For temporary or transient events, the owner, lessee or custodian shall be responsible for payment of this tax if the person conducting the event fails to do so. Failure to comply with any requirement of the finance director as to reporting and remittance of the tax as required shall be a violation of this chapter. (Ord. 2811 § 1, 2009).

3.86.130 Overpayment of admissions tax.

Whenever the taxpayer has made an overpayment and within one year after date of such overpayment, upon submission of satisfactory proof thereof, makes application for refund or credit of the overpayment, such refund or credit shall, where appropriate, be made. (Ord. 2811 § 1, 2009).

3.86.140 Inspection of records.

The books, records, and accounts of any person, firm or corporation collecting a tax herein levied shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the finance director and/or the State Auditor, and all such records shall be retained and be available for such inspection for a period of at least six years. (Ord. 2811 § 1, 2009).

3.86.150 Violator – Violations.

Any person who directly or indirectly performs or omits to perform any act in violation of this chapter, including reporting posting requirements, or aids or abets the same, whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such violation is and shall be a principal under the terms of this chapter, subject to penalty, and may be proceeded against as such. (Ord. 2811 § 1, 2009).

3.86.160 Penalty for violation.

Every person violating or failing to comply with any provision of this chapter or any lawful rule or regulation adopted by the finance director pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine not to exceed $5,000 or by imprisonment for a term not to exceed one year or by both such fine and imprisonment.

In addition to any other remedy, no business license shall be issued or renewed, and an existing business license may be revoked, for a business which has failed to pay taxes or penalties required pursuant to this chapter. (Ord. 2811 § 1, 2009).

Chapter 3.87

NATURAL GAS TAX

Sections:

3.87.010 Imposed.
3.87.020 Rate.
3.87.030 Exemptions.
3.87.040 Credit.
3.87.050 Payment.
3.87.060 Administration and collection.
3.87.070 Records inspection.

3.87.010 Imposed.

A use tax, as previously generally imposed by MMC 3.84.010, is hereby fixed and imposed upon every person or entity for the privilege of using natural gas or manufactured gas in the city of Marysville as a consumer. (Ord. 2864 § 1, 2011).

3.87.020 Rate.

The tax is fixed and imposed in an amount equal to the value of the article used by the consumer multiplied by the rate of five percent on that amount of gas used monthly.

The "value of the article used" shall have the meaning set forth in RCW 82.12.010(1) and does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this chapter if those amounts are subject to tax under MMC 3.64.030 or RCW 35.21.870. (Ord. 2864 § 1, 2011).

3.87.030 Exemptions.

The tax imposed under this chapter shall not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under MMC 3.64.030 or RCW 35.21.870. (Ord. 2864 § 1, 2011).

3.87.040 Credit.

There shall be a credit against the tax levied under this chapter in an amount equal to any tax paid by:

(1) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another municipality or other unit of local government with respect to the gas for which a credit is sought under this subsection; or

(2) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another municipality or other unit of local government with respect to the gas for which a credit is sought under this subsection. (Ord. 2864 § 1, 2011).

3.87.050 Payment.

The use tax imposed shall be paid by the consumer. (Ord. 2864 § 1, 2011).

3.87.060 Administration and collection.

The city shall contract with the Department of Revenue for the administration and collection of this use tax. (Ord. 2864 § 1, 2011).

3.87.070 Records inspection.

The city of Marysville 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. 2864 § 1, 2011).

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; provided, however, the amount paid out as prizes shall be deducted from the gross revenue. (Ord. 2773 § 1, 2009; 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. (Ord. 2773 § 2, 2009; 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 3.95A

RECOVERY OF COSTS FOR CONVICTED PERSONS

Sections:

3.95A.010 Definitions.
3.95A.020 Emergency response caused by person's intoxication – Recovery of costs from convicted person.
3.95A.030 Administration – Collection.

3.95A.010 Definitions.

As used in this chapter:

(1) "Emergency" means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in MMC 3.95A.020.

(2) "Emergency response" means a public agency's use of emergency services during an emergency or disaster as defined in subsection (1) of this section.

(3) "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(4) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services. (Ord. 2647 § 1, 2006).

3.95A.020 Emergency response caused by person's intoxication – Recovery of costs from convicted person.

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, RCW 46.61.504; (3) driving or being in actual physical control of a motor vehicle after consuming liquor and being under 21, RCW 46.61.503; (4) negligent driving in the first degree, RCW 46.61.5249; (5) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (6) use of a vessel while under the influence of alcohol or drugs, RCW 88.12.025; (7) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (8) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

In no event shall a person's liability under this section for the expense of an emergency response exceed $1,000 for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of Chapter 39.34 RCW.

The city of Marysville shall bill a defendant the cost of apprehension, investigation, processing, and the initial temporary incarceration, as reasonable costs of providing police services and such other and further costs and fees as documented by other public agencies providing emergency services. (Ord. 2647 § 1, 2006).

3.95A.030 Administration – Collection.

(1) The city is hereby authorized to collect such costs as a condition of sentencing on a criminal case filed in Marysville municipal court. The prosecutor will file a notice of liability for the expense of emergency response with the court at the time of sentencing. The court has discretion whether to impose all or a portion of the expense of emergency response as a condition of sentence.

(2) In the alternative, the city is hereby authorized and directed to execute a notice of liability for the expense of emergency response. The city will send the person a bill by certified mail with a return receipt. Any fees not collected within 60 days of the date of issuance of the notice of liability for the expense of emergency response shall be referred to a collection agency. The cost of collection shall be added to the bill. All fees collected shall be appor-

tioned as provided in RCW 38.52.430. Fees and costs collected by the city shall be received into the general fund. (Ord. 2647 § 1, 2006).

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).

Chapter 3.101

CRIME PREVENTION FUNDING

Sections:

3.101.010 Fund created.
3.101.020 Source of crime prevention funding – Contribution required.
3.101.030 Expenditures.
3.101.040 Unexpended funds.

3.101.010 Fund created.

There is created and established within the police services budget of the city of Marysville a separate line item to be known as crime prevention funding. (Ord. 2646 § 2, 2006).

3.101.020 Source of crime prevention funding – Contribution required.

(1) In any case where an accused has been convicted of any misdemeanor or gross misdemeanor crimes in Marysville municipal court, there shall be, in addition to any fine levied, a penalty in the amount of $50.00, per charge, which penalty shall be nonsuspendable, and which shall be deposited into the crime prevention funding line item. The fact that this penalty is imposed on each charge shall not in any way reduce the obligation of the accused to pay any other cost, fine or penalty prescribed by the court.

(2) For the purposes of subsection (1) of this section, a conviction shall mean a deferred prosecution, deferred sentence or guilty finding. (Ord. 2646 § 2, 2006).

3.101.030 Expenditures.

Monies deposited into this line item funding shall be used for funding police and administration of justice projects and activities geared towards crime prevention, including but not limited to: publications and dissemination of crime prevention information and for funding of other crime prevention projects and purposes, and for general police activities responding to and addressing the effects of crime within the community, and for any other purposes geared to improve administration of the criminal justice system, as determined and approved by the city council. (Ord. 2646 § 2, 2006).

3.101.040 Unexpended funds.

Any funds remaining in the crime prevention funding line item at the end of any budget year shall not be transferred to the city's current expense fund or otherwise lapse; rather, said funds shall be carried forward from year to year until expended for the purposes set forth in MMC 3.101.030. (Ord. 2646 § 2, 2006).

Chapter 3.103

MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION

Sections:

3.103.010 Findings.
3.103.020 Purpose.
3.103.030 Definitions.
3.103.040 Residential targeted area designation criteria.
3.103.050 Amendment or rescission of designation of residential targeted area.
3.103.060 Residential targeted area standards and guidelines.
3.103.070 Tax exemption for multifamily housing in residential targeted areas.
3.103.080 Application procedures.
3.103.090 Application review and issuance of conditional certificate.
3.103.100 Application for final certificate.
3.103.110 Issuance of final certificate.
3.103.120 Annual compliance review.
3.103.130 Cancellation of tax exemption.
3.103.140 Appeals to hearing examiner.
3.103.150 Urban center and residential targeted area designated.
3.103.160 Termination of provisions.

3.103.010 Findings.

(1) The urban center of the city of Marysville lacks sufficient available, desirable and convenient residential housing units, including affordable housing units, to meet the needs of the public, and more current and future residents of Marysville would be likely to live in the city's urban center if additional desirable, convenient, attractive, affordable and livable places to live were available.

(2) The development of such housing units, including affordable housing units, in the urban center of the city will attract and maintain a significant increase in the number of residents, thus making the area more vibrant, and will help to stimulate business, entertainment and cultural activities. Accordingly, development of additional housing within the urban center of the city of Marysville will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020.

(3) The tax incentive provided by Chapter 84.14 RCW will stimulate the creation of new and enhanced residential structures within the city's urban center, benefiting and promoting the public health, safety and welfare by encouraging residential redevelopment, including affordable housing opportunities.

(4) This housing tax-incentive program also would promote further economic development and enhanced public safety in the city's urban center by creating an influx of new residents, of mixed income, who will utilize urban services, stimulate downtown Marysville development and encourage increased residential opportunities.

(5) The providing of additional housing opportunity in the residential targeted area described in MMC 3.103.150 meets the requirements of Chapter 84.14 RCW.

(6) The notice of hearing given for the designation of the residential targeted area and the adoption of this chapter meets the requirements of RCW 84.14.040. (Ord. 2801 § 1, 2009).

3.103.020 Purpose.

It is the purpose of this chapter to encourage increased residential housing, including affordable housing opportunities, in keeping with the goals and mandates of the Growth Management Act (Chapter 36.70A RCW) so as to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in the city's urban center having insufficient housing opportunities. (Ord. 2801 § 1, 2009).

3.103.030 Definitions.

(1) "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate income levels.

(2) "City" means the city of Marysville, a municipal corporation and political subdivision.

(3) "Director" means the city of Marysville's director of community development or authorized designee.

(4) "Household" means a single person, family, or unrelated persons living together.

(5) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size for Snohomish County as reported by the United States Department of Housing and Urban Development. At such times as the city is a high-cost area,

"low-income household" means a household that has an income at or below 100 percent of the median family income adjusted for family size in Snohomish County.

(6) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent but is below 115 percent of the median family income adjusted for family size for Snohomish County as reported by the United States Department of Housing and Urban Development. At such times as the city is a high-cost area, "moderate-income household" means a household that has an income at or above 100 percent of the median family income, adjusted for family size, but is below 115 percent of the median family income, adjusted for family size, for Snohomish County.

(7) "High-cost area" means a county where the third quarter median house price for the previous year as reported by the Washington Center for Real Estate Research at Washington State University is equal to or greater than 130 percent of the statewide median house price published during the same time period.

(8) "Owner" means the property owner of record.

(9) "Multifamily housing" and "multiple-unit housing" are used synonymously in this chapter and mean a building having 20 or more dwelling units not designed or used as transient accommodations, not including hotels and motels and designed for permanent residential occupancy resulting from new construction, rehabilitation or conversion of a vacant, underutilized or substandard building to multifamily housing.

(10) "Permanent residential occupancy" means multifamily housing that provides either owner-occupant housing or rental accommodations that are leased for a period of at least one month on a nontransient basis. This excludes accommodations that offer occupancy on a transient basis such as hotels and motels that predominately offer rental accommodations on a daily or weekly basis.

(11) "Rehabilitation improvements" means modifications to existing structures that are vacant for 12 months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.

(12) "Residential targeted area" means the area within or coterminous with the city's urban center and downtown study area, generally described as follows:

> The downtown study area for the master plan is located within the larger Downtown Neighborhood, Planning Area 1 of the City's neighborhood planning areas, as defined in the City of Marysville Comprehensive Plan. The study area is bounded by 8th Street to the north, Ebey Slough to the south, Alder Avenue to the east, and I-5 to the west. The Downtown Study Area is approximately 182 acres in size.

The downtown study area is part of the urban center of the city and has been designated by the city council as the residential targeted area in accordance with this chapter and Chapter 84.14 RCW. It has been found by the city council to be lacking sufficient available, convenient, attractive, livable, and desirable residential housing to meet the needs of the public.

(13) "Urban center" means the downtown study area described in MMC 3.103.150, where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies and a mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both uses. (Ord. 2801 § 1, 2009).

3.103.040 Residential targeted area designation criteria.

Following notice and public hearing, or a continuance thereof, as prescribed in RCW 84.14.040, the city council may, in its sole discretion, designate all of or a portion of the residential targeted area described in the notice of hearing as the residential targeted area. The designated targeted area must meet the following criteria, as found by city council in its sole discretion:

(1) The targeted area is located within the urban center as determined by the city council;

(2) The targeted area lacks sufficient available, affordable, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the urban center, if such places to live were available; and

(3) The providing of additional housing opportunity in the targeted area will assist in achieving the stated purposes of RCW 84.14.007, namely:

(a) Encourage increased residential opportunities within the targeted area of the city of Marysville; or

(b) Stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily

housing that will increase and improve residential opportunities within the city's urban centers;

(4) In designating the residential targeted area, the city council may also consider other factors, including, but not limited to, which additional housing in the targeted area will attract and maintain a significant increase in the number of permanent residents, whether additional housing in the targeted area will help revitalize the city's urban center, whether an increased residential population will help improve the targeted area and whether an increased residential population in the targeted area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020;

(5) The notice for the hearing has met the requirements of RCW 84.14.040.

The urban center and residential targeted area defined in MMC 3.103.030 were designated following notice and a public hearing and findings as required by this section. (Ord. 2801 § 1, 2009).

3.103.050 Amendment or rescission of designation of residential targeted area.

The city council may, by ordinance, amend or rescind the designation of the residential targeted area at any time pursuant to the same procedure as set forth in this chapter for original designation. (Ord. 2801 § 1, 2009).

3.103.060 Residential targeted area standards and guidelines.

For the designation of residential targeted area, the city council shall adopt basic requirements for both new construction and rehabilitation, including the application process and procedures. The city council may also adopt guidelines and requirements including the following:

(1) Requirements that address demolition of existing structures and site utilization; and

(2) Building requirements that may include elements addressing parking, height, density, environmental impact, public benefit features, compatibility with surrounding property, and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the residential targeted area. The required amenities should be relative to the size of the proposed project and tax benefit to be obtained.

(3) A proposed project must meet the standards and guidelines listed in MMC 3.103.070(4)(a) through (f), including parking requirements existing for the applicable zone in effect at the time the applicant submits a fully completed application to the director; provided, all parking shall be provided on site for the project subject to the application. (Ord. 2801 § 1, 2009).

3.103.070 Tax exemption for multifamily housing in residential targeted areas.

(1) Intent. Exemptions from ad valorem property taxation for multifamily housing in urban centers are intended to:

(a) Encourage increased residential opportunities, including affordable housing opportunities, within the urban center designated by the city council as a residential targeted area;

(b) Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in the residential targeted area to increase and improve housing opportunities;

(c) Assist in directing future population growth in the designated urban center, thereby reducing development pressure on single-family residential neighborhoods; and

(d) Achieve development densities which are more conducive to transit use in the designated urban center.

(2) Duration of Exemption. The value of new construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation as follows:

(a) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate of exemption; or

(b) Twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of exemption, and the property otherwise qualifies for the exemption under Chapter 84.14 RCW and meets the following conditions:

(i) The applicant must commit to renting or selling at least 20 percent of the multifamily housing units as affordable housing units to low- and moderate-income households, and the property must satisfy that commitment. In the cases of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households.

(ii) The exemptions provided herein do not include the value of land or non-housing-related improvements.

(3) Limits on Exemption. The exemption does not apply to the value of the land or to the value of improvements not qualifying under this chapter,

nor does the exemption apply to increases in assessed valuation of land or nonqualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.

(4) Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:

(a) Location. The project must be located within the residential targeted area as designated pursuant to MMC 3.103.150 and defined in MMC 3.103.030.

(b) Tenant Displacement Prohibited. The project must not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation must have been unoccupied for a minimum of 12 months prior to submission of an application and must fail to comply with one or more requirements of the building code of the city as set forth in MMC Title 16. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.

(c) Size. The project must include at least 20 units of multifamily housing within a residential structure. A minimum of 20 new units must be constructed or at least 20 additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for 12 months or more does not have to provide additional units so long as the project provides at least 20 units of new, converted or rehabilitated multifamily housing.

(d) Permanent Residential Housing. At least 50 percent of the space designated for multifamily housing must be provided for permanent residential occupancy, as defined in MMC 3.103.030(10) and only that portion of the space designated for multifamily housing shall be eligible for the exemption provided for herein.

(e) Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application, plus any extension of time granted under MMC 3.103.090(2).

(f) Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, housing and zoning codes, and any other applicable regulations in effect at the time the applicant submits a fully completed application to the director. New construction must comply with the building code of the city and all other applicable regulations. Rehabilitation and conversion improvements must comply with the building code of the city set forth in MMC Title 16 and all other applicable regulations. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building and housing ordinance requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. The project must also comply with any other standards and guidelines adopted by the city for the residential targeted area in which the project will be developed.

(g) Parking. The project must provide all required parking spaces on site. The parking requirements for multiple-family dwellings of the Marysville zoning code are applicable to multifamily residences provided for in this chapter; provided, however, to qualify for the exemption hereunder, the project shall provide not less than one parking space per new or rehabilitated residential unit in the project. The term "parking spaces on site" means that all the parking required under applicable city codes and requirements shall be off-street parking and provided on the property subject to the application for tax exemption hereunder or on any contiguous parcel owned by the applicant and not separated by a street, alley, other public right-of-way, or property not owned by the applicant. The director may authorize the parking area for a multifamily residence which is subject to the application for tax exemption hereunder to be located on a contiguous parcel which is separated from the multifamily residence site by an alley, if topographic, environmental or space constraints prevent vehicle parking and maneuvering from being placed on the location otherwise required by this chapter. In approving the on-site parking on any parcel contiguous to the multifamily residence site, including any approved parcel separated by an alley, the director shall require the owner to execute and record a covenant running with the land, acceptable to the city attorney, dedicating such parking area to parking use, to terminate only in the event that the owner's use which created the need for the parking on the owner's property is abandoned, discontinued or otherwise terminated, or the owner provides parking in a contiguous alternate location which is acceptable to and approved by the city. (Ord. 2801 § 1, 2009).

3.103.080 Application procedures.

A property owner who wishes to propose a project for a tax exemption shall comply with the following procedures:

(1) Prior to the application for any building permit for a project, the applicant shall submit an application to the director, on a form established by the director, along with the required fees. The initial application fees to the city shall consist of a base fee of $500.00, plus $25.00 per multifamily unit. An additional $150.00 fee to cover the Snohomish County assessor's administrative costs shall also be paid to the city. If the application is approved, the city shall pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application shall result in a denial by the city, the city shall retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.

(2) A complete application shall contain such information as the director may deem necessary or useful, and shall include:

(a) A brief written description of the project and preliminary schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located, setting forth the grounds for the exemption;

(b) A brief statement setting forth the grounds for qualification for exemption;

(c) A statement from the owner acknowledging the potential tax liability when the project ceases to be eligible under this chapter;

(d) If applicable, a statement that the project meets the affordable housing requirements; and

(e) Verification by oath or affirmation of the information submitted.

For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application and shall secure from the city verification of property noncompliance with the city's housing ordinance. (Ord. 2801 § 1, 2009).

3.103.090 Application review and issuance of conditional certificate.

The director may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 days of receipt of a complete application or concurrently with the issuance of the final SEPA determination for the proposed project, whichever is later. An application may be approved subject to such terms and conditions as deemed appropriate by the director to ensure the project meets the land use regulations of the city.

(1) Approval. If an application is approved by the director, the approval, together with a contract between the applicant and the city regarding the terms and conditions of the project, signed by the applicant, shall be presented to the city council with a recommendation that the council authorize the mayor to sign the contract. Once the contract is fully executed, the director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.

(2) Extension of Conditional Certificate. The conditional certificate may be extended by the director for a period not to exceed 24 consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a $150.00 processing fee. An extension may be granted if the director determines that:

(a) The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;

(b) The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and

(c) All the conditions of the original contract between the applicant and the city will be satisfied upon completion of the project.

(3) Denial of Application. If the application is denied, the director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within 10 days of the denial. An applicant may appeal a denial to the city council by filing a written appeal with the city clerk within 30 days of notification by the city to the applicant that the application is denied. The appeal will be based upon the record made before the director with the burden of proof on the applicant to show that there is no substantial evidence on the record to support the director's decision. The decision of the city council in denying or approving the application is final. All other appeals of the director's decisions shall be made to the hearing examiner. (Ord. 2801 § 1, 2009).

3.103.100 Application for final certificate.

Upon completion of the improvements provided in the contract between the applicant and the city and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant must file with the director such information as the director may deem necessary or useful to evaluate eligibility for the final certificate and shall include:

(1) A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;

(2) A description of the completed work and a statement of qualification for the exemption;

(3) A statement that the work was completed within the required three-year period or any authorized extension. Within 30 days of receipt of all materials required for a final certificate, the director shall determine whether the improvements satisfy the requirements of this chapter; and

(4) If applicable, a statement that the project meets the affordable housing requirements. (Ord. 2801 § 1, 2009).

3.103.110 Issuance of final certificate.

If the director determines that the project has been completed in accordance with the contract between the applicant and the city and has been completed within the authorized time period, the city shall, within 10 days following the expiration of the 30-day period specified in MMC 3.103.100(3), file a final certificate of tax exemption with the Snohomish County assessor.

(1) Denial and Appeal. The director shall notify the applicant in writing that a final certificate will not be filed if the director determines that:

(a) The improvements were not completed within the authorized time period;

(b) The improvements were not completed in accordance with the contract between the applicant and the city;

(c) The owner's property is otherwise not qualified under this chapter; or

(d) The owner and the director cannot come to an agreement on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multi-use new construction; or

(e) If applicable, that the affordable housing requirements for the project have not been met.

(2) Within 30 days of notification by the city to the owner of the director's denial of a final certificate of tax exemption, the applicant may file a written appeal with the city clerk specifying the factual and legal basis for the appeal. Said appeal shall be heard by the city's hearing examiner. (Ord. 2801 § 1, 2009).

3.103.120 Annual compliance review.

Within 30 days after the first anniversary of the date of filing the final certificate of tax exemption and each year thereafter, for a period of 10 years, the property owner shall file a notarized declaration with the director indicating the following:

(1) A statement of occupancy and vacancy of the multifamily units during the previous year;

(2) A certification that the property continues to be in compliance with the contract with the city;

(3) A description of any subsequent improvements or changes to the property; and

(4) If applicable, a certification that the property has not changed use and the property has been in compliance with affordable housing requirements.

City staff shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled. (Ord. 2801 § 1, 2009).

3.103.130 Cancellation of tax exemption.

If at any time the director determines the owner has not complied with the terms of the contract or with the requirements of this chapter, or that the property no longer complies with the terms of the contract or with the requirements of this chapter, or for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multifamily housing to another use, the owner must notify the director and the Snohomish County assessor within 60 days of the change in use. Upon such change in use, the tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law.

(1) Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the Snohomish County assessor shall comply with applicable state law to impose additional taxes, interest and penalties on the property, and a priority lien may be placed on the land, pursuant to state law.

(2) Notice and Appeal. Upon determining that a tax exemption is to be canceled, the director shall notify the property owner by certified mail, return receipt requested. The property owner may appeal

the determination by filing a notice of appeal with the city clerk within 30 days, specifying the factual and legal basis for the appeal. The hearing examiner will conduct a hearing at which the applicant and the city will be heard and all competent evidence received. The hearing examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. (Ord. 2801 § 1, 2009).

3.103.140 Appeals to hearing examiner.

(1) The city's land use hearing examiner is hereby provided jurisdiction to hear appeals of the decisions of the director under this chapter. Said appeals shall be as follows:

(a) Appeal of a decision of the director that the owner is not entitled to a final certificate of tax exemption, filed with the city clerk within 30 days of notification by the city to the owner of denial of a final certificate of tax exemption.

(b) Appeal of a cancellation of tax exemption, filed with the city clerk within 30 days of the notification by the city to the owner of cancellation.

(2) The hearing examiner's procedures shall apply to hearings under this chapter to the extent they are consistent with the requirements of this chapter and Chapter 84.14 RCW. The hearing examiner shall give substantial weight to the director's decision and the burden of overcoming the weight shall be on the appellant. The decision of the examiner constitutes the final decision of the city. An aggrieved party may appeal the decision to superior court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within 30 days of notification by the city to the appellant of that decision. (Ord. 2801 § 1, 2009).

3.103.150 Urban center and residential targeted area designated.

(1) Urban Center Designation. The area declared to be the urban center of the city of Marysville is:

> Planning Area 1 of the City's neighborhood planning areas, as defined in the City of Marysville Comprehensive Plan. The urban center is bounded by 8th Street to the north, Ebey Slough to the south, Alder Avenue to the east, and I-5 to the west. The urban center is approximately 182 acres in size.

(2) Residential Targeted Area Designated. The area hereby declared to be the residential targeted area of the city of Marysville is the urban center of the city as defined in subsection (1) of this section.

(3) If a part of any legal lot is within the urban center or is within the residential targeted area, then the entire lot shall be deemed to lie within such area. (Ord. 2801 § 1, 2009).

3.103.160 Termination of provisions.

As of January 1, 2018, no applications shall be accepted for the tax exemption provided for under the provisions of this chapter. This chapter shall apply only to those properties whose owners have applications fully completed in accordance with this chapter on file before January 1, 2018. (Ord. 2801 § 1, 2009).

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), providing for both civil and criminal remedies for violations;

(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. 2873 § 1, 2011; Ord. 2763 § 1, 2009; 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 is authorized to utilize the provisions of this title to enforce violations of the MMC, and shall include any duly authorized representative of such director. 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 22G.060 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" means the following:

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

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

(c) A violation of the city's land use, zoning, and environmental regulations (MMC Title 22), construction code regulations (MMC Title 16), water, sewer, and stormwater regulations (MMC Title 14), business license regulations (MMC Title 5), noise regulations (Chapter 6.76 MMC), health and sanitation regulations (MMC Title 7), fire regulations (MMC Title 9), animal control regulations (MMC Title 10), abandoned, unauthorized, and junk vehicle regulations (Chapter 11.36 MMC), and any other violation of the Marysville Municipal Code that poses a threat to the public health, safety or welfare.

(8) "Screened from public view" means sight-obscuring fencing and/or landscaping is installed around the area or objects. (Ord. 2873 § 1, 2011; Ord. 2763 § 1, 2009; 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 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. 2873 § 1, 2011; Ord. 2763 § 1, 2009; 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 and the MMC.

(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 proceedings 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, stop work order, emergency order, or permanent enforcement order, pursuant to subsections (7) and (8) 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; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code);

(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;

(f) File a lien against the property for costs of abatement and/or civil fines;

(g) Issue civil infractions/third violation criminal:

(i) Except as otherwise provided herein, any violation of this code to which this chapter applies is deemed and declared to be a civil infraction. Each day of violation shall constitute a separate civil infraction;

(ii) Schedule. Any person found to have committed a civil infraction shall be assessed a fine as set forth in the following schedule:

		First Violation		Second Violation *All third and subsequent violations of the MMC on this schedule within 2 years are a misdemeanor	
Code Provisions		Noncommercial	Commercial	Noncommercial	Commercial
Title	Chapter				
4 Enforcement Code	4.02 Enforcement Procedures	$300	$500	$600 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$1,000 *Third violation, see subsections (3)(g)(iii) and (4) of this section
5 Business Regulations and Licenses	5.02 Business Licenses		$250		$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
6 Penal Code	6.24 Public Nuisances	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
	6.76 Noise Regulation	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
7 Health and Sanitation	7.08 Garbage Collection	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
9 Fire	9.04 Fire Code	$1,000	$1,000	$1,000 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$1,000 *Third violation, see subsections (3)(g)(iii) and (4) of this section
12 Streets and Sidewalks	12.24 Sidewalks – Dangerous Conditions	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
	12.36 Vegetation	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section

		First Violation		Second Violation *All third and subsequent violations of the MMC on this schedule within 2 years are a misdemeanor	
Code Provisions		**Noncommercial**	**Commercial**	**Noncommercial**	**Commercial**
Title	**Chapter**				
	12.40 Clean Condition of Public Right-of-Way	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
14 Water and Sewers	14.01 General Provisions	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
	14.15 Controlling Storm Water Runoff from New Development, Redevelopment, and Construction Sites	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
	14.16 Operation and Maintenance of Public Storm Drainage Systems	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
	14.17 Operation and Maintenance of Private Storm Drainage Systems	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
		Plus any costs incurred for the maintenance of failed private storm water systems.			
	14.21 Illicit Discharge Detection and Elimination (IDDE)	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section
		Plus city’s costs for abatement, sampling and/or monitoring.			
22 Unified Development Code	Title 22C Land Use Standards	$150	$250	$300 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section

Code Provisions		First Violation		Second Violation *All third and subsequent violations of the MMC on this schedule within 2 years are a misdemeanor	
Title	Chapter	Noncommercial	Commercial	Noncommercial	Commercial
	22D.050 Clearing, Grading, Filling and Erosion Control	$250	$350	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$700 *Third violation, see subsections (3)(g)(iii) and (4) of this section
	22E.010 Critical Areas Management	$250	$350	$500 *Third violation, see subsections (3)(g)(iii) and (4) of this section	$700 *Third violation, see subsections (3)(g)(iii) and (4) of this section

(iii) Criminal Violations for Third and Subsequent Violations. All third and subsequent violations of all MMC chapters listed in the schedule in subsection (3)(g)(ii) of this section committed within two years are misdemeanor crimes punishable as set forth in subsection (4) of this section. Said crimes will be processed through Marysville municipal court as set forth in the Marysville Municipal Code, state law, the Washington State Court Rules Limited Jurisdiction Court Rules (CrRLJ) and local court rules for Marysville municipal court, and/or subsection (4) of this section; and/or

(iv) Civil infractions will be administered and processed through Marysville municipal court as set forth in the Marysville Municipal Code, state law, the Washington State Court Rules Infraction Rules for Courts of Limited Jurisdiction (IRLJ) and local court rules for Marysville municipal court; and/or

(h) Mitigate civil fines.

(i) The director may reduce or waive civil fines assessed under this chapter if the violation is corrected within the specified deadline and the correction is verified by the city. A reduction shall be in writing and state the date on which the violation was corrected.

(ii) For reduction or waiver of fines, the person(s) named shall have the burden of proof that the violation has been corrected.

(iii) Any reduction or waiver shall be based on an evaluation of individual circumstances, including but not limited to the severity of the violation, repetition of violations, protection of the public interest, and responsiveness of the person(s) responsible to correct, cure, abate, and/or stop the violation.

(4) Violators Punishable by Criminal Fine and Imprisonment. As referenced in subsections (3)(g)(ii) and (iii) of this section relating to third violations, and 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 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.

(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; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code).

(7) Temporary Enforcement Order, Stop Work Order, and Emergency Order.

(a) The director may cause a temporary enforcement order, stop work order, or emergency order ("order") to be posted on the subject property or served on the property owner and/or persons engaged in any work or activity on the property, as provided in this section.

(i) A temporary order may be issued pursuant to and in accordance with subsection (6)(a) of this section.

(ii) A stop work order may be issued to immediately cease specified work or activity when the director finds that such work or activity is being conducted in violation of the MMC or in a dangerous or unsafe manner.

(iii) An emergency order may be issued to immediately cease and remedy specified work or activity when the director finds that such work or activity is being conducted in a hazardous or unsafe manner that threatens the health or safety of the occupants of any premises or members of the public.

(iv) Violation of a stop work order or emergency order shall constitute a misdemeanor, punishable as provided in subsection (4) of this section.

(b) The order shall require immediate cessation of such work or activities and may temporarily suspend any approval or permit issued under this title; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code).

(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 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 in the amount set forth in subsection (3)(g) of this section 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 in the amount set forth in subsection (3)(g) of this section 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 pursuant to subsection (9) of this section.

(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) A written appeal may be filed within 10 calendar days following issuance of a temporary or permanent order, stop work order, emergency order, or permanent enforcement order.

(b) An appeal of a stop work order or emergency order shall not stay the requirement that the specified work or activity immediately cease and/or be remedied.

(c) The director shall prepare and transmit to the hearing examiner any appeal of a temporary or permanent enforcement order, and 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; MMC Title 5 (Business Regulations and Licenses), including without limitation MMC 5.02.140, 5.20.080 and 5.52.090; MMC Title 6 (Penal Code), including without limitation Chapter 6.24 MMC; MMC Title 7 (Health and Sanitation), including without limitation MMC 7.04.010 through 7.04.100; MMC Title 9 (Fire); MMC Title 11 (Traffic), including without limitation MMC 11.36.040; MMC Title 12 (Streets and Sidewalks), including without limitation MMC 12.08.040, Chapter 12.12 MMC, MMC 12.20.010, Chapter 12.24 MMC, MMC 12.36.020 through 12.36.030 and 12.40.020 through 12.40.030; MMC Title 14 (Water and Sewers), including without limitation Chapters 14.15, 14.16, 14.17 and 14.21 MMC; MMC Title 16 (Building); and MMC Title 22 (Unified Development Code) 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. 2951 §§ 1, 2, 2014; Ord. 2873 § 1, 2011; Ord. 2816 § 2, 2010; Ord. 2763 § 1, 2009; 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. 2873 § 1, 2011; Ord. 2763 § 1, 2009; 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
5.73 Wireless Communication Facility Franchise Regulations
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 Body Art, Body Piercing and Tattooing 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 Chapter 16.28 MMC.

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. 2744 § 1, 2008; 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. 2744 § 1, 2008; 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 savings 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;

(10) Any business which sublets or purchases space from a farmer's market where the sponsor leases property owned by the city of Marysville; provided, the sponsor/lessee shall not be exempt from the business license requirements of this chapter. (Ord. 2744 § 1, 2008; Ord. 2618 § 1, 2006; 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 of Marysville community development department or designated licensing official. 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 of Marysville community development department or designated licensing official. 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. 2744 § 1, 2008; 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 of Marysville community development department or designated licensing official shall forward copies of the application to appropriate city officials for their comments regarding compliance with regulations under their jurisdiction. The city of Marysville community development department or designated licensing official 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 of Marysville community development department or designated licensing official 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 of Marysville community development department or designated licensing official 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's hearing examiner. Upon receiving written notice of appeal the hearing examiner 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 hearing examiner 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 hearing examiner's decision. (Ord. 2744 § 1, 2008; 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. 2744 § 1, 2008; 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. 2744 § 1, 2008; 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) 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. 2744 § 1, 2008; Ord. 2580, 2005; Ord. 2566, 2005; Ord. 2340 § 1, 2000; Ord. 2288 § 1, 1999; Ord. 1701 § 5, 1989; Ord. 1498 § 2, 1986).

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. 2744 § 1, 2008; 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. 2744 § 1, 2008; 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 of Marysville community development department or designated licensing official, in writing, and shall pay the administrative transfer fee specified above. (Ord. 2744 § 1, 2008; Ord. 1498 § 2, 1986).

5.02.110 Suspension or revocation of licenses.

(1) The hearing examiner 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 hearing examiner.

(2) The hearing examiner 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 of Marysville community development department or designated licensing official determines that there is probable cause for suspending or revoking a business license, they 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 hearing examiner 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 hearing examiner 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 hearing examiner's decision. (Ord. 2744 § 1, 2008; 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. 2744 § 1, 2008; 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 commercial violation and any person found to have violated any provision of this chapter is punishable by a penalty as set forth in MMC 4.02.040(3)(g). Each day that a violation continues shall constitute a new and separate violation.

(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. 2951 § 3, 2014; Ord. 2744 § 1, 2008; 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.

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(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 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 business license required.
5.24.030 For-hire vehicle business license application.
5.24.040 Criminal record.
5.24.050 Liability insurance.
5.24.060 Issuance of for-hire vehicle business 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 subsections (1)(b) and (c) of this section.

(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 licensing specialist and/or designee for display in each taxicab which contains the rates of fare then in force.

(6) "Taxicab" means a for-hire vehicle operated to a destination determined by the passenger, with the fare based upon the amount recorded and indicated on a taximeter.

(7) "Taximeter" means a permanently mounted instrument or device by which the charge for hire of a taxicab is calculated either for distance traveled by the vehicle or for waiting, or for both, and upon which such charges shall be indicated by means of dollars and cents.

(8) "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. 2851 § 1, 2011; Ord. 1143 § 2, 1980).

5.24.020 For-hire business 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 licensing specialist and/or designee. The provisions of this chapter shall not apply to motor vehicles operated by any municipal or privately owned, licensed nonprofit transit system, or ambulances operated by, or on behalf of, any local municipality. (Ord. 2851 § 2, 2011; Ord. 1143 § 2, 1980).

5.24.030 For-hire vehicle business license application.

Applicants for for-hire vehicle licenses shall furnish the following information:

(1) Completed driver's permit application in accordance with MMC 5.24.090 for each driver that will be driving for the business;

(2) 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;

(3) The experience of the applicant in the transportation of passengers;

(4) Any facts which establish that public convenience and necessity require the granting of the license;

(5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals;

(6) Proposed rate card indicating the current rates to be charged to passengers;

(7) 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;

(8) 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;

(9) 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;

(10) Such further information as the licensing specialist and/or designee may require. (Ord. 2851 § 3, 2011; 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 licensing specialist and/or designee proof of a current and subsisting policy or policies of public liability insurance, approved as to sufficiency by the licensing specialist and/or designee, 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 licensing specialist and/or designee in the event of any change or cancellation. (Ord. 2851 § 4, 2011; Ord. 1143 § 2, 1980).

5.24.060 Issuance of for-hire vehicle business license.

The licensing specialist and/or designee shall issue a for-hire vehicle business license upon receipt of a completed business license application in accordance with MMC 5.24.030, a criminal record background check that demonstrates the criteria of MMC 5.24.040 have been met, satisfactory police department inspection, submission of proof of insurance in accordance with MMC 5.24.050, payment of the prescribed vehicle license fee, and compliance with all other applicable provisions of this chapter. (Ord. 2851 § 5, 2011; 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 business license: $165.00 per year for each business;

(b) Driver's permit: $45.00 for initial permit and $35.00 for renewal of permit. To qualify for a renewal, the applicant must have been licensed the previous year without allowing the license to lapse for more than 20 days.

(2) All fees shall be payable annually in advance and no prorated fee shall be allowed. (Ord. 2851 § 6, 2011; 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 licensing specialist and/or designee on forms provided by the city. Such application shall be sworn to by the applicant and shall contain the following information:

(1) The experience of the applicant in the transportation of passengers;

(2) A concise history of his employment for the past five years;

(3) A picture of the applicant;

(4) Applicant for a for-hire vehicle driver's license must submit, at the applicant's expense of $26.00, to fingerprinting by the Marysville police department and shall submit a copy of the fingerprints in an envelope sealed by the Marysville police department with his/her application;

(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 controlled substances, crimes of moral turpitude, prostitution, gambling, dishonesty, physical violence and fraud;

(8) Name of for-hire vehicle business the applicant will be driving for. The business must have a city for-hire vehicle business license in good standing or have submitted as a new applicant for business license prior to applicant's application or it will not be accepted. (Ord. 2851 § 7, 2011; 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 abuse of alcohol and/or controlled substances, or a crime of moral turpitude, prostitution, gambling, dishonesty, physical violence or fraud within the preceding five years.

(2) No driver's permit shall be issued without approval of the chief of police or his/her designee.

(3) Upon finding that an applicant for a driver's permit meets the requirements of this chapter, the licensing specialist and/or designee shall issue such a permit, which shall bear the name, address, 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. 2851 § 8, 2011; 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 licensing specialist and/or designee 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 licensing specialist and/or designee for a period of 30 days. (Ord. 2851 § 9, 2011; 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 licensing specialist and/or designee or chief of police or the agents of either. (Ord. 2851 § 10, 2011; 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. (Ord. 2851 § 11, 2011; 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 hearing examiner 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 controlled substance, 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. 2851 § 12, 2011; 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 imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than $1,000, or by both such imprisonment and fine. (Ord. 2951 § 4, 2014; Ord. 2562 § 1, 2005; Ord. 2324 § 1, 2000).

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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 Special event permit required.
5.46.025 Exceptions to special event permit requirement.
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.
5.46.110 Revocation of special event permit.
5.46.120 Cost recovery for unlawful special event.
5.46.130 Expressive activity special event.
5.46.140 Penalties for violation.

5.46.010 Definitions.

Terms used in this chapter shall have the following meanings:

(1) "Demonstration" means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.

(2) "Event organizer" means any person who conducts, manages, promotes, organizes, aids, or solicits attendance at a special event.

(3) "Event management company" means an entity with expertise in managing special events.

(4) "Expressive activity" includes conduct for which the sole or principal object is expression, dissemination, or communication by verbal, visual, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include sports events, including marathons, fundraising events, or events the principal purpose of which is entertainment.

(5) "Gross revenues" means the sum of all revenues received by an event organizer for a special event including, but not limited to, cash receipts, licensing, sponsorships, television, advertising and similar revenues, and concessions.

(6) "March" means an organized walk or event whose principal purpose is expressive activity in service of a public cause.

(7) "Noncommercial special event" means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization, or a special event whose principal purpose is expressive activity.

(8) "Rally" means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.

(9) "Sidewalk" means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

(10) "Sign" means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

(11) "Special event" means any fair, show, parade, run/walk, festival, or other publicly attended entertainment or celebration which is to be held in whole or in part upon publicly owned property or public rights-of-way, or if held wholly upon private property, will nevertheless affect or impact the ordinary and normal use by the general public or public rights-of-way within the vicinity of such event.

(12) "Special event permit" means a permit issued under this chapter.

(13) "Special permit venue" means that area for which a special event permit has been issued.

(14) "Street" means any place that is publicly maintained and open to use of the public for purposes of vehicular traffic, including highways.

(15) "Tax-exempt nonprofit organization" means an organization that is exempted from payment of income taxes by federal or state law and has been in existence for a minimum of six months preceding the date of application for a special event permit.

(16) "Vendor" means any person who sells or offers to sell any goods, food, or beverages within a special event venue. (Ord. 2901 § 1, 2012).

5.46.020 Special event permit required.

Except as provided elsewhere in this chapter, any person or entity who conducts, promotes, or manages a special event shall first obtain a special event permit from the city of Marysville. (Ord. 2901 § 1, 2012).

5.46.025 Exceptions to special event permit requirement.

(1) Although not required to be issued a special event permit, an event organizer of an activity exempted from this chapter is required to comply with all local, state and federal laws and regulations governing public safety or health.

(2) The following activities are exempt from obtaining a special event permit:

(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) Private events held entirely on private property that do not involve the use of or have an impact on public property or facilities and that do not require the provision of city public safety services;

(c) Funeral and wedding processions on private properties;

(d) Groups required by law to be so assembled;

(e) Gatherings of 100 or fewer people in a city park, unless merchandise or services are offered for sale or trade to the public, in which case a special event permit is required;

(f) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, anniversary sales, or single event (one day only) concession stands;

(g) Garage sales, rummage sales, lemonade stands, and car washes;

(h) Activities conducted by a governmental agency acting within the scope of its authority;

(i) Lawful picketing on sidewalks;

(j) Block parties located entirely on private property when not requesting a street closure, and not inviting others from outside the neighborhood;

(k) Annual Strawberry Festival which is governed by Chapter 5.48 MMC; and

(l) Other similar events and activities which do not directly affect or use city services or property. (Ord. 2901 § 1, 2012).

5.46.030 Permit application.

(1) An application for a special event permit can be obtained at the office of the community development director and will be completed and submitted to the community development director and/or designee 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 community development director and/or designee. The community development director and/or designee 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 expressive activity.

(3) The following information shall be provided on the special event permit application:

(a) The name, address, fax, cell, day of event contact number, email address, and office telephone number of the applicant;

(b) A certification that the applicant will be financially responsible for any city fees or costs that may be imposed for the special event;

(c) The name, address, fax, cell, email address and telephone number of the event organizer, if any, and the chief officer of the event organizer, if any;

(d) A list of emergency contacts that will be in effect during the event, and the event web address, if any; and

(e) If the special event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for special event permit shall file a signed, written communication from such organization:

(i) Authorizing the applicant to apply for the special event permit on its behalf;

(ii) Certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the special event; and

(iii) Attached to which shall be a copy of the tax exemption letter issued for any applicant claiming to be a tax-exempt nonprofit organization;

(f) All permit applications shall include:

(i) A statement of the purpose of the special event;

(ii) A statement of fees to be charged for the special event, including admissions tax documentation;

(iii) The proposed location of the special event;

(iv) Dates and times when the special event is to be conducted;

(v) The approximate times when assembly for, and disbanding of, the special event is to take place;

(vi) The proposed locations of the assembly or production area;

(vii) The specific proposed site or route, including a map and written narrative of the route;

(viii) The proposed site of any reviewing stands and/or vending areas;

(ix) The proposed site for any disbanding area;

(x) Proposed alternative routes, sites or times, where applicable;

(xi) The approximate number of persons, animals, and vehicles that will constitute the special event;

(xii) The kinds of animals anticipated to be part of the special event;

(xiii) A description of the types of vehicles to be used in the special event;

(xiv) The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise;

(xv) The number and location of potable sanitation facilities;

(xvi) Other equipment or services necessary to conduct the special event with due regard for participant and public health and safety;

(xvii) The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for special events using city streets, sidewalks, or facilities, including use of public or private law enforcement personnel;

(xviii) Provisions for first aid or emergency medical services, or both, based on special event risk factors;

(xix) Insurance and surety bond information;

(xx) Any special or unusual requirements that may be imposed or created by virtue of the proposed special event activity;

(xxi) The marketing plan with proposed timelines associated with marketing the activity to the general public;

(xxii) Event timeline documenting activities from event set-up to event tear-down;

(xxiii) Parking areas;

(xxiv) Identify city assistance being requested; and

(xxv) Any other information required by the city. (Ord. 2901 § 1, 2012).

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, fire, streets, sanitation, and community development director 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, Snohomish Health District, etc., these must be submitted prior to the issuance of the permit. (Ord. 2901 § 1, 2012).

5.46.050 Fees.

There will be a $100.00 nonrefundable application fee for a special event permit. (Ord. 2901 § 1, 2012).

5.46.060 Departmental analysis.

(1) The community development director or designee will send copies of special event permit applications to all pertinent city departments and/or outside agencies when deemed necessary 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. 2901 § 1, 2012).

5.46.070 Insurance required.

Except as otherwise provided in this chapter, the applicant is required to obtain and present evidence of comprehensive liability insurance naming the city of Marysville, its officials, officers, employees and agents as additional insured for use of streets, public rights-of-way and publicly owned property such as parks. The insurance policy shall be written on an occurrence basis and shall provide a minimum coverage of $1,000,000 for individual incidents, $2,000,000 aggregate, per event, against all claims arising from permits issued pursuant to this chapter. The insurance policy period shall be for a period not less than 24 hours prior to the event and

extending for a period of not less than 24 hours following completion of the event. In circumstances presenting a significantly high risk of liability the city may, in its discretion, increase the minimum insurance requirements, and in circumstances presenting a significantly low risk of liability, the city may in its discretion reduce the minimum insurance requirements. (Ord. 2901 § 1, 2012).

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 and/or the applicant has failed to pay all fees due from previous special events;

(9) The applicant failed to provide proof of sufficient monitors for crowd control and safety at least one week prior to the event;

(10) The applicant has failed to provide proof of sufficient on- or off-site parking or shuttle services, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event;

(11) The applicant has failed to conduct a previously authorized or exempted special event in accordance with law and/or the terms of a permit;

(12) The special event application conflicts with permits issued on same date and location creating hardship or financial burden to already permitted events;

(13) The applicant does not meet current zoning requirements;

(14) The applicant fails to obtain local, county, state and federal permits as required;

(15) The city reasonably determines that the proposed special event conflicts with an already approved special event scheduled for same date(s). (Ord. 2901 § 1, 2012).

5.46.090 Appeal.

The applicant has the right to appeal any denial or revocation of a special events permit to the city council. An appeal shall be made in writing, shall specify the grounds of the appeal, shall have supporting documentation attached, and it shall be filed with the community development director within seven calendar days of the date of the written denial or revocation. (Ord. 2901 § 1, 2012).

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. If the permittee fails to clean up such refuse, the cleanup 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. 2901 § 1, 2012).

5.46.110 Revocation of special event permit.

(1) Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this section.

(2) A special event permit may be revoked if the city determines:

(a) That the special event cannot be conducted without violating the provisions of this chapter and/or conditions for the special event permit issuance;

(b) The special event is being conducted in violation of the provisions of this chapter and/or any condition of the special event permit;

(c) The special event poses a threat to health or safety;

(d) The event organizer or any person associated with the special event has failed to obtain any other permit required pursuant to the provisions of this chapter;

(e) The special event permit was issued in error or contrary to law;

(f) The applicant has not paid all fees when due; or

(g) The applicant has failed to provide confirmation or proof that it has obtained the minimum number of required volunteers to perform safety functions.

(3) Except as provided in this section, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(4) If there is an emergency requiring immediate revocation of a special event permit, the city may notify the permit holder verbally of the revocation. (Ord. 2901 § 1, 2012).

5.46.120 Cost recovery for unlawful special event.

Whenever a special event is conducted without a special event permit when one is required or is conducted in violation of the terms of an issued special event permit, the event organizer shall be responsible for, and the city shall charge the event organizer for, all costs incurred as a result of the adverse impacts of the special event or the violation of the special event permit. (Ord. 2901 § 1, 2012).

5.46.130 Expressive activity special event.

When a special event permit is sought for an expressive activity such as a demonstration, rally, or march as defined in this chapter, the following exceptions shall apply:

(1) Where the special event will not require temporary street closures, cost recovery pursuant to MMC 5.46.050 shall be limited solely to a fee based on the cost of processing the permit application.

(2) The insurance requirement of MMC 5.46.070 shall be waived; provided, that the event organizer has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression and the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression. The verified statement shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(3) Where the special event will require temporary street closures and any one or more of the conditions of subsection (4) of this section are present requiring the city to provide services in the interest of public health, safety, and welfare, the special event coordinator may condition the issuance of the special event permit upon payment of actual, direct costs incurred by the city to a maximum of $500.00. Any fee schedule adopted by the city shall contain a provision for waiver of, or a sliding scale for payment of, fees for city services, including police costs, on the basis of ability to pay.

(4) The city may deny a special event permit for a demonstration, rally or march if:

(a) The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(b) The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(c) The special event will block traffic lanes or close streets during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on streets designated as arterials by the city's public works department.

(d) The special event will require the diversion of police employees from their normal duties;

(e) The concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(f) The special event will substantially interfere with another special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events; or

(g) The special event will have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(5) With regard to the permitting of expressive activity special events where the provisions of this section conflict with the provisions in any other section of this chapter, the provisions of this section shall prevail. (Ord. 2901 § 1, 2012).

5.46.140 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 $250.00 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.

(3) Any permit 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. (Ord. 2901 § 1, 2012).

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-

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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 $500.00. 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. 2866 § 1, 2011; 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).

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 Definitions.
5.60.020 Peddler/solicitor/master solicitor business license required.
5.60.030 License – Applicant investigation.
5.60.040 License, or facsimile copy, must be carried on person while peddling or soliciting.
5.60.050 Hours during which peddling is allowed.
5.60.060 Unlawful to peddle or solicit on posted premises.
5.60.070 Exemptions.
5.60.080 Street vendors.
5.60.090 Penalties and violations.

5.60.010 Definitions.

Terms used in this section shall have the following meanings:

(1) "Peddler" means any person who goes from house to house, or place to place, within the city of Marysville, selling and providing immediate delivery or performance, or offering for sale and immediate delivery or performance, any goods, wares, merchandise, food, beverages, services, or anything of value to persons who are not commercial users or sellers of such commodities or services.

(2) "Solicitor" means any person who goes from house to house or place to place within the city of Marysville, taking or offering to take orders for the sale of goods, wares, merchandise, food, beverages, services, or anything of value for future delivery or performance from persons not commercial users or sellers of such commodities.

(3) "Street vendor" (which includes a peddler and solicitor) means a person who sells goods or services from a place within the city to include but not be limited to display of goods or services on private property or on the public right-of-way.

(4) "Master solicitor" means any person or firm that employs or uses agents or employees to act as solicitors or peddlers.

(5) "Vending unit" means the display of goods or services through use of a kiosk, tent, controlled area, cart or vehicle capable of movement.

(6) The terms "peddler" or "solicitor" shall not include any person making solicitations for charitable or religious purposes or while exercising political free speech.

(7) The terms "peddler" or "solicitor" shall not include participants in an event sponsored by the city of Marysville in conjunction with a special event or festival. (Ord. 2856 § 1, 2011).

5.60.020 Peddler/solicitor/master solicitor business license required.

No person shall perform peddling, solicitation or street vendor activities within the city prior to obtaining a peddler/solicitor or master solicitor business license under Chapter 5.02 MMC, unless such activity is exempt as provided for in this chapter or Chapter 5.02 MMC. (Ord. 2856 § 1, 2011).

5.60.030 License – Applicant investigation.

Upon submission of an application, in addition to the provisions of Chapter 5.02 MMC, the applicant shall consent to an investigation by the city to determine:

(1) The existence of the employer or firm by confirming the state master business license or federal identification number.

(2) The name, address and identifying information of the person or entity making application to include the identifying information for all agents and employees.

(3) Whether the applicant or any solicitor agent listed on the application has a conviction for a felony within the 10 years preceding the license application and the felony directly relates to the qualification of the applicant to be a solicitor or peddler.

(4) A criminal history investigation, performed by the city police department, on the applicant and all agents and employees of the applicant.

(5) The truth of the facts set forth in the application. (Ord. 2856 § 1, 2011).

5.60.040 License, or facsimile copy, must be carried on person while peddling or soliciting.

(1) It shall be unlawful for any individual to peddle or solicit without having in their possession the license issued by the city.

(2) Each master solicitor licensee which employs, hires or engages others to act as peddlers or solicitors shall furnish as credentials to each employee, agent, independent contractor, or other person peddling or soliciting for or on behalf of such licensee a facsimile copy of its license, upon which shall appear the typed or printed name and address and the signature of the person to whom such facsimile copy is issued. Such facsimile copies will be issued by the city clerk or designee, who will maintain a listing of all persons to whom fac-

simile copies are issued by the city. Street vendors shall display their license so that it may be viewed by the public. Facsimile copies shall be nontransferable and shall at all times remain in the possession of the person to whom issued.

(3) The license shall be shown to all persons contacted, and to any police officer, deputy sheriff, license officer or code enforcement officer of the city upon the request of such officer. (Ord. 2856 § 1, 2011).

5.60.050 Hours during which peddling is allowed.

It is unlawful for any person to peddle or solicit, except during the following hours, without the specific prior consent of the prospective buyer:

October 1st through April 30th – Between 10:00 a.m. and 6:00 p.m. of any day.

May 1st through September 30th – Between 10:00 a.m. and 8:00 p.m. of any day. (Ord. 2856 § 1, 2011).

5.60.060 Unlawful to peddle or solicit on posted premises.

It is unlawful for any peddler or solicitor to ring the bell, or knock on the door, or otherwise attempt to contact an occupant for the purpose of peddling or soliciting any residence or dwelling at which a sign bearing the words "No Peddlers or Solicitors" (or words of similar import indicating that peddlers or solicitors are not wanted on said premises) is painted, affixed, or otherwise exposed to public view; provided, that this section shall not apply to any peddler or solicitor who rings the bell, knocks on the door, or otherwise attempts to contact an occupant of such residence or dwelling at the invitation or with the consent of the occupant thereof. (Ord. 2856 § 1, 2011).

5.60.070 Exemptions.

The following shall be exempt from the provisions of this chapter:

(1) Any instrumentality of the United States, state of Washington, or any political subdivision thereof, with respect to the exercise of governmental functions;

(2) Nonprofit organizations, including but not limited to public, religious, civil, charitable, benevolent, nonprofit, cultural or youth organizations;

(3) Farmers, gardeners, or other persons who deliver or peddle any agricultural, horticultural, or farm products which they have grown, harvested, or produced; provided, that this exemption does not apply to the sale of firewood;

(4) Any persons regularly selling or delivering door-to-door to established customers food products, laundry, dry-cleaning services, or baby diapers;

(5) Newspaper carriers who deliver door-to-door;

(6) Any person who is specifically requested to call upon others for the purpose of displaying goods, literature, or giving information about any article, service, or product;

(7) Bona fide candidates, campaign workers, and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency;

(8) Peddlers operating at any city-sponsored or authorized civic event for a time period not to exceed five consecutive days, so long as each peddler's name, address and telephone number are submitted to the city, in advance of the civic event, to be maintained in the city records; and

(9) Vendors operating at a farmers' or public market or other city-sponsored or approved activity under the provisions of a temporary use permit; provided, that the name, address and telephone number of each vendor are provided in advance to the city to be maintained in the city records. (Ord. 2856 § 1, 2011).

5.60.080 Street vendors.

Street vendors shall comply with the following:

(1) No obstruction of the movement of persons or vehicles in the public right-of-way (street, curb and sidewalk) shall be allowed.

(2) The location for the street vendor shall be limited to the location and area identified in the application and/or license. A license does not grant the right to continuously occupy a location in the city, with the city reserving the right to relocate the street vendor.

(3) The type and size of the vending unit shall be approved as part of the application or license.

(4) The street vendor shall provide a refuse container and maintain the vending site in a clean and orderly state.

(5) No mechanical audio or noise-making devices are allowed; provided, however, mobile carts or vehicles such as ice cream vendors may emit music to the extent the sound level is in compliance with Chapter 6.76 MMC relating to noise regulation.

(6) All advertising shall be placed on the vending unit with no additional advertising allowed in the public right-of-way. Maximum sign area shall not exceed 10 square feet. (Ord. 2856 § 1, 2011).

5.60.090 Penalties and violations.

Any person found in violation of any of the provisions of this chapter shall be guilty of a misdemeanor.

(1) Criminal Penalties. Any person who fails to comply with the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof be punished as provided in RCW 9A.20.021(3). The person may also be ordered to discontinue the unlawful act or correct the violation.

(2) Other Legal Remedies. Nothing in this chapter limits the right of the city to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter. (Ord. 2856 § 1, 2011).

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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 22A.020 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 5.73

WIRELESS COMMUNICATION FACILITY FRANCHISE REGULATIONS

Sections:

5.73.010 Short title.
5.73.020 Definitions.
5.73.030 Franchise grant.
5.73.040 Franchise purposes.
5.73.050 Nonexclusive franchises.
5.73.060 Application.
5.73.070 Duration.
5.73.080 Franchise area.
5.73.090 Police powers.
5.73.100 Use of rights-of-way.
5.73.110 Site fee agreements.
5.73.120 Franchise fees.
5.73.130 Taxes.
5.73.140 Other authorizations.
5.73.150 Rules and regulations of the city.
5.73.160 Delegation of powers.
5.73.170 Technical standards.
5.73.180 Safety requirements.
5.73.190 Construction standards.
5.73.200 Street cut or repair.
5.73.210 Privacy.
5.73.220 Discriminatory practices prohibited.
5.73.230 Equal employment opportunity.
5.73.240 Reimbursement.
5.73.250 Franchise renewal.
5.73.260 Franchise revocation.
5.73.270 Acceptance.
5.73.280 Conflicts.
5.73.290 Miscellaneous.

5.73.010 Short title.

This chapter shall constitute the "wireless communication facility franchise regulations" of the city of Marysville and may be referred to as such. (Ord. 2669 § 1, 2006).

5.73.020 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) "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.

(3) "City council" means the Marysville city council, or its successor, the governing body of the city.

(4) "FCC" means the Federal Communications Commission.

(5) "Franchise" or "master permit" or "wireless right-of-way use agreement" means an agreement adopted by ordinance that authorizes a person or entity to construct, operate, maintain or reconstruct wireless facilities in city rights-of-way. Upon the written acceptance by a franchisee, the agreement constitutes a contract between the city and franchisee.

(6) "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.

(7) "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.

(8) "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.

(9) "Site fee agreement" means the addendum to wireless right-of-way use agreement: site-specific right-of-way fee agreement for wireless facilities, which provides for site-specific authorization by, and payment to, the city for use of city right-of-way for a wireless communications facility.

(10) "Wireless communication facility" or "WCF" shall have the meaning given in Chapter 22A.020 MMC.

(11) "Wireless operator" means any person or group of persons, including a franchisee, who provide(s) wireless service over a wireless communication facility and directly or through one or more affiliates owns a significant interest in such wireless communication facility or who otherwise control(s) or are (is) responsible for, through any arrangement, the management and operation of such a wireless communication facility.

(12) "Wireless service" means service through a wireless communication facility. (Ord. 2669 § 1, 2006).

5.73.030 Franchise grant.

It is unlawful to engage in or commence construction, operation, or maintenance of a WCF in city rights-of-way without a franchise issued under this chapter. The city council may, by ordinance, issue a nonexclusive franchise to construct, operate and maintain a WCF 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 do so in compliance 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 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. 2669 § 1, 2006).

5.73.040 Franchise purposes.

A franchise granted by the city under the provisions of this chapter shall:

(1) Permit the franchisee to engage in or commence construction, operation, or maintenance of a WCF 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 a WCF in rights-of-way within the city; and

(3) Set forth the obligations of the franchisee under the franchise. (Ord. 2669 § 1, 2006).

5.73.050 Nonexclusive franchises.

Any franchise granted pursuant to this chapter shall be nonexclusive and not preclude the city from granting other or future franchises or permits. (Ord. 2669 § 1, 2006).

5.73.060 Application.

(1) An applicant for an initial franchise with the city 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. As permitted by RCW 35.21.860, an application fee in the amount of $5,000 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 consult-

ants, 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 with the city for a WCF shall contain, at a minimum:

(a) A statement as to the proposed franchise and information relating to the characteristics and location of the proposed WCF;

(b) A resume of prior history of the applicant, including the expertise of the applicant in the wireless field;

(c) Information demonstrating the applicant's legal, technical and financial ability to construct and operate the proposed WCF;

(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 with the city 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 WCF 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 WCF.

(4) Within 120 days after the submission of a complete application as provided in RCW 35.99.030, 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. 2669 § 1, 2006).

5.73.070 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. 2669 § 1, 2006).

5.73.080 Franchise area.

Any franchise granted hereunder shall be valid for those geographic areas specified in the franchise. (Ord. 2669 § 1, 2006).

5.73.090 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. 2669 § 1, 2006).

5.73.100 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 WCF. Prior to construction or alteration of the WCF 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, the requirements in Chapter 22C.250 MMC. (Ord. 2669 § 1, 2006).

5.73.110 Site fee agreements.

The franchisee shall comply with all obligations set forth in site fee agreements, as provided in, and attached to, the franchise. (Ord. 2669 § 1, 2006).

5.73.120 Franchise fees.

The franchisee shall pay the city franchise fees in accordance with the terms of the franchise. (Ord. 2669 § 1, 2006).

5.73.130 Taxes.

Nothing in this chapter shall limit the franchisee's obligation to pay applicable local, state and federal taxes. (Ord. 2669 § 1, 2006).

5.73.140 Other authorizations.

The 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. 2669 § 1, 2006).

5.73.150 Rules and regulations of the city.

In addition to the inherent powers of the city to regulate and control any franchise it issues 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. 2669 § 1, 2006).

5.73.160 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. 2669 § 1, 2006).

5.73.170 Technical standards.

The franchisee shall construct, install, operate and maintain its WCF in a manner consistent with all enacted and applicable federal, state and local laws and regulations, including Chapter 22C.250 MMC, FCC technical standards and any other applicable standards set forth in the franchise. (Ord. 2669 § 1, 2006).

5.73.180 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 the 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. 2669 § 1, 2006).

5.73.190 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) The franchisee shall be subject to any and all requirements established by the city with regard to the placement and screening of the 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. 2669 § 1, 2006).

5.73.200 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 the franchisee's facilities for the life of the street; provided, that no action by a third party materially affects the integrity of the franchisee's street cut or repair. The franchisee shall repair or replace, at no expense to the city, any failed street cut or repair which was completed by the franchisee or the franchisee's agent(s), as determined by the city engineer. (Ord. 2669 § 1, 2006).

5.73.210 Privacy.

The franchisee will be bound by all of the provisions of applicable federal, state and local privacy laws. (Ord. 2669 § 1, 2006).

5.73.220 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. 2669 § 1, 2006).

5.73.230 Equal employment opportunity.

The franchisee shall strictly adhere to and comply with the equal employment opportunity requirements of federal, state and local laws. (Ord. 2669 § 1, 2006).

5.73.240 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 the franchisee an itemized description of all such charges, and the franchisee shall pay such amount within 30 days after the receipt of such description. (Ord. 2669 § 1, 2006).

5.73.250 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. 2669 § 1, 2006).

5.73.260 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. 2669 § 1, 2006).

5.73.270 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. 2669 § 1, 2006).

5.73.280 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. Where this chapter or a franchise conflict with Chapter 22C.250 MMC, Chapter 22C.250 MMC shall prevail. (Ord. 2669 § 1, 2006).

5.73.290 Miscellaneous.

(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 wireless operators and WCFs to the greatest extent permissible under applicable law. (Ord. 2669 § 1, 2006).

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).

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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 22G.060 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 22G.060 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 SEMI-NUDE 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 22G.060 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 22G.060 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 22G.060 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 22G.060 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 BODY ART, BODY PIERCING AND TATTOOING AND TATTOO PARLORS

Sections:

5.92.010 Definitions.
5.92.020 License required.
5.92.030 Public bath houses and body shampoo 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.
5.92.080 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.
5.92.120 Misdemeanor.
5.92.130 Inspections.
5.92.140 Severability.
5.92.150 Body art, body piercing and tattooing and tattoo parlors.

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, or body shampoo 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 or body shampoo parlor.

(8) "Hearing examiner" shall mean the hearing examiner as appointed pursuant to the provisions of Chapter 22G.060 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 or body shampoo 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 organized for athletic purposes, or a country club. (Ord. 2846 § 1, 2010; Ord. 2834 § 1, 2010; 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 a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter: public bath house or body shampoo 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. (Ord. 2834 § 1, 2010; Ord. 2070 § 6, 1996).

5.92.030 Public bath houses and body shampoo parlors licenses.

(1) All applications for either a public bath house or body shampoo 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 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 an 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 or body shampoo

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 or body shampoo 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 or body shampoo 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 or body shampoo 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 or body shampoo parlor. The license shall be posted in a conspicuous place at or near the entrance to the public bath house or body shampoo parlor, 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. 2834 § 1, 2010; 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, or 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. 2834 § 1, 2010; 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. 2834 § 1, 2010; 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. 2834 § 1, 2010; 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 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 22G.060 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. 2846 § 2, 2010; Ord. 2834 § 1, 2010; 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 ensure 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. 2834 § 1, 2010; 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. 2834 § 1, 2010; Ord. 2070 § 6, 1996).

5.92.130 Inspections.

In order to ensure 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. 2834 § 1, 2010; 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. 2834 § 1, 2010; Ord. 2070 § 6, 1996).

5.92.150 Body art, body piercing and tattooing and tattoo parlors.

(1) All business license applications and fees for body art, body piercing and tattooing and tattoo parlors shall be processed pursuant to Chapter 5.02 MMC and shall comply with all city laws and regulations and all state licensing laws and regulations.

(2) 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 state and city to do so.

(3) RCW 26.28.085, Applying a tattoo to a minor – Penalty, including all future amendments, additions or deletions, is incorporated and adopted by reference. (Ord. 2834 § 1, 2010).

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
6.23 Chronic Nuisance Properties
6.24 Public Nuisances
6.25 Graffiti Nuisance
6.27 Controlled Substances and Drug Paraphernalia
6.28 Stay Out of Drug Areas (SODA) Orders
6.30 Public Indecency – Prostitution – Sex Crimes
6.33 Obscenity and Pornography
6.36 Loitering
6.37 Pedestrian Interference – Coercive Solicitation
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
6.82 Park Code

1. For provisions regarding fireworks, see Chapter 9.20 MMC; for provisions regarding destruction of library property, see Chapter 2.08 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.20.021(2) and (3).

(1) Gross Misdemeanor. Every person convicted of a gross misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 364 days, or by a fine in an amount fixed by the court of not more than $5,000, or by both such imprisonment and fine.

(2) Misdemeanor. Every person convicted of a misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than $1,000, or by both such imprisonment and fine. (Ord. 2951 § 5, 2014; Ord. 2748 § 1, 2008; 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 Revised Code of Washington specified in the Marysville Municipal Code 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. 2748 § 2, 2008; 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 the MMC by reference shall be deemed to automatically amend or repeal 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. 2748 § 2, 2008; 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. 2748 § 2, 2008; 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 6.23

CHRONIC NUISANCE PROPERTIES

Sections:

6.23.010 Scope.
6.23.020 Purpose.
6.23.030 Definitions.
6.23.040 Chronic nuisance activities – Violation.
6.23.050 Determination of chronic nuisance property.
6.23.060 Notice of determination of chronic nuisance property.
6.23.070 Appeal of chronic nuisance property.
6.23.080 Owner cooperation.
6.23.090 Voluntary compliance plan and correction agreement.
6.23.100 Enforcement.
6.23.110 Additional enforcement provisions.

6.23.010 Scope.

This chapter addresses chronic nuisance properties that are in violation of various chapters of the Marysville Municipal Code (MMC) and continue to be unresolved by normal compliance methods therefore resulting in the necessary enactment of the provisions of this chapter. Chronic nuisance properties present grave health, safety, and welfare concerns, which the property owners or persons in charge of such properties have failed in taking corrective action to abate the nuisance condition. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety, and health of the neighborhoods where they are located. This chapter is enacted to remedy nuisance activities that repeatedly occur or exist at chronic nuisance properties by providing a process for abatement; and this remedy is not exclusive. Any remedy available under any state or local laws may be used in lieu of or in conjunction with the remedies under this chapter.

Also, chronic nuisance properties are a financial burden to the city by the repeated calls for service to the properties because of the nuisance activities that repeatedly occur or exist on such properties, and this chapter is a means to ameliorate those conditions and hold responsible the owners or persons in charge of such properties. (Ord. 2970 § 1, 2014).

6.23.020 Purpose.

Chronic nuisance properties present significant health, safety, and welfare concerns with a tremendous negative impact upon the quality of life in the neighborhoods where they are located. This chapter provides a remedy for chronic nuisance activities that repeatedly occur or exist on such properties. (Ord. 2970 § 1, 2014).

6.23.030 Definitions.

For purposes of this chapter:

(1) "Chief of police" means the city of Marysville chief of police or the chief's designee.

(2) "Chronic nuisance activity" means:

(a) Any of the following activities, behaviors or conduct:

(i) Harassment offenses as defined in Chapter 6.50 MMC.

(ii) Assault or reckless endangerment as defined in Chapter 6.21 MMC.

(iii) Disorderly conduct as defined in MMC 6.24.020.

(iv) Indecent exposure and prostitution offenses as defined in Chapter 9A.88 RCW and Chapter 6.30 MMC.

(v) Liquor-related offenses as defined in Chapters 66.28 and 66.44 RCW and in Chapters 6.57 and 6.58 MMC.

(vi) Littering as defined in Chapter 7.12 MMC.

(vii) Fraud-related offenses as defined in Chapter 9A.60 RCW.

(viii) Possession, manufacture, or delivery of a controlled substance or related offenses as defined in Chapter 69.50 RCW.

(ix) Precursor drug-related offenses as defined in Chapter 69.43 RCW.

(x) Controlled substances and drug paraphernalia offenses as defined in Chapter 6.27 MMC.

(xi) Violation of stay out of drug areas (SODA) order as defined in Chapter 6.28 MMC.

(xii) Loitering for the purpose of engaging in drug-related activity as defined in MMC 6.36.020.

(xiii) Violation of felony drug off-limits orders as defined in Chapter 10.66 RCW and Chapter 6.28 MMC.

(xiv) Gambling-related offenses as defined in Chapters 9.46 and 9.47 RCW and Chapter 5.26 MMC.

(xv) Firearms and dangerous weapons offenses as defined in Chapter 9.41 RCW and Chapter 6.60 MMC.

(xvi) Public nuisance and disturbance noises as defined in MMC 6.76.060.

(xvii) Possession of stolen property offenses as defined in Chapter 9A.56 RCW.

(b) Activities, behavior or conduct that is in violation of any of the following city of Marysville regulatory codes:

(i) License code (MMC Title 5).

(ii) Animal control code (MMC Title 10).

(iii) Health and sanitation (MMC Title 7).

(iv) Unified development code (MMC Title 22).

(v) Fire code (MMC Title 9)

(vi) Building code (MMC Title 16).

(vii) Noise regulation code (Chapter 6.76 MMC).

(viii) Washington State Clean Air Act violations.

(c) Nuisance-related activities as defined in Chapters 7.48, 7.48A, 9.66 and 35.22 RCW.

(d) Gang-related activity as defined in RCW 59.18.030.

(e) Multiple nuisance activities contained in a single police incident report are not counted as separate nuisance activities.

(f) Police incident reports generated by calls for service to aid victims on the property shall not be used to determine a chronic nuisance property.

(3) "Chronic nuisance property" is a property which:

(a) For single-family residential property or single-unit commercial property, within a 90-day period:

(i) Has had six or more nuisance activities occur or exist upon the property;

(ii) Has had six or more nuisance activities occur within 200 feet of the property that involve the person in charge of the property and/or any person associated with the person in charge of the property;

(iii) Has had nuisance activities either occur or exist upon the property or within 200 feet of the property that involve the person in charge of the property and/or any person associated with the person in charge of the property for a combined total of six or more times; or

(b) For single-family residential property or single-unit commercial property, within a 365-day period:

(i) Has had 12 or more nuisance activities occur or exist upon the property; or

(ii) Has had 12 or more nuisance activities occur within 200 feet of the property that involve the person in charge of the property and/or any person associated with the person in charge of the property; or

(iii) Has had nuisance activities either occur or exist upon the property or within 200 feet of the property that involve the person in charge of the property and/or any person associated with the person in charge of the property for a combined total of 12 or more times; or

(c) For any type of property, a search warrant has been served twice within a 24-month period; or

(d) For multifamily residential or multi-tenant commercial property, within a 180-day period, the following number of nuisance activities described in subsection (2) of this section have occurred on different days:

(i) Property with two or three units: eight nuisance activities.

(ii) Property with four to 19 units: 14 nuisance activities.

(iii) Property with 20 to 39 units: 20 nuisance activities.

(iv) Property with 40 to 100 units: 26 nuisance activities.

(v) Property with over 100 units: 32 nuisance activities.

A single unit within a multifamily residential and multi-tenant commercial property that meets the definition of subsection (3)(a) or (3)(b) of this section is a chronic nuisance property; and

(e) Any property determined or designated by the chief of police and the director after a review of official documentation such as police incident reports, notices and orders to correct, and case files to determine if there are sufficient facts and circumstances to establish probable cause to find the occurrence of nuisance activities.

(f) For the purposes of this section and subsection (3) of this section, a person is associated with the person in charge of the property if he/she is on the property or within 200 feet of the property as a guest, invitee, or tenant of the person in charge of the property.

(4) "City attorney" means the city of Marysville city attorney or the city attorney's designee.

(5) "Control" means the power or ability to direct or determine conditions and/or activities located on or occurring on a property, and any person who has authority to allow others to be present on a property.

(6) "Director" means the city of Marysville director of community development or the director's designee.

(7) "MMC" means the Marysville Municipal Code, as in effect at the date of enactment of the ordinance codified in this section or as thereafter amended.

(8) "Owner" means one or more persons, jointly or severally, in whom is vested all or any part of the legal title to property, or all or part of the beneficial ownership and a right to present use and enjoyment of the property, including any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

(9) "Person" means an individual, group of individuals, corporation, government or governmental agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Person in charge of the property" means any person in actual or constructive possession of the property, including but not limited to an owner, lessee, tenant or occupant with control of the property.

(11) "Property" means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, grounds, vacant lots, facilities, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent.

(12) "RCW" means the Revised Code of Washington, as in effect at the date of enactment of the ordinance codified in this section or as thereafter amended. (Ord. 2970 § 1, 2014).

6.23.040 Chronic nuisance activities – Violation.

It shall be unlawful for any person to permit a chronic nuisance property. (Ord. 2970 § 1, 2014).

6.23.050 Determination of chronic nuisance property.

The police chief and the director shall review official documentation such as police incident reports, notices and orders to correct, and case files to determine if there are sufficient facts and circumstances to establish probable cause to find the occurrence of nuisance activities to support a designation of the property as a chronic nuisance property. If the police chief and director determine that the site is not a chronic nuisance, the case will be closed. (Ord. 2970 § 1, 2014).

6.23.060 Notice of determination of chronic nuisance property.

(1) When a property is determined to be a chronic nuisance property, the property owner of record and person in charge of the property shall be served with a notice of determination of chronic nuisance property with the following information:

(a) The name and address of the person to whom the letter is issued;

(b) The location of the subject property by address or other description sufficient for identification of the subject property;

(c) A statement that the city has determined the property to be a chronic nuisance property;

(d) A concise description of the nuisance activities upon which the determination was based, and documentation of the chronic nuisance activities including police case number(s), police incident report numbers, and city of Marysville code enforcement case numbers;

(e) A demand that the property owner of record or the person in charge of the property respond within seven days of service to the notice as directed to abate chronic nuisances which may include submission of a voluntary compliance plan for city approval;

(f) A warning that the persons in charge of the property are potentially civilly and criminally liable and subject to civil infractions and abatement at the owner's expense for continuing to allow chronic nuisance activities, as defined in this chapter, to occur upon the property;

(g) A warning that the property owner of a chronic nuisance property permitted by a person in charge other than the owner, or the owner's agent, must promptly take all steps requested in the notice of determination of chronic nuisance property to assist in abatement of the nuisance property, including pursuing eviction of the person in charge, available to the owner pursuant to any lease and consistent with state law. A statement advising that any person named in the notice of determination of chronic nuisance property or having any record or equitable title in the property against which the notice of determination is recorded may appeal from the notice to the city of Marysville hearing examiner within 14 calendar days of the date of issuance of the notice in accordance with MMC 6.23.070;

(h) A statement advising that a failure to appeal the notice of determination of chronic nuisance property within the applicable time limits renders the determination a final determination, that the conditions described in the notice existed

and constituted a chronic nuisance, and that the named party is liable as a responsible party; and

(i) Name and telephone number of the city representative who is responsible for handling inquiries regarding the notice including a statement advising the property owner and person in charge of the property of his or her duty to notify the city of any actions taken to achieve compliance with the notice of determination of chronic nuisance property.

(2) The notice of determination of chronic nuisance shall be served on the property owner of record and the person in charge of the property by the following methods:

(a) By posting the notice of determination of chronic nuisance property in a conspicuous place on the property where the violation occurred and concurrently mailing the notice to the property's address; and

(b) By personal service; or

(c) By mailing a copy by certified mail, return receipt requested, to the property owner of record at the address shown on Snohomish County tax records and to the person(s) in charge of the property at his/her last known address or at the address of their place of business. (Ord. 2970 § 1, 2014).

6.23.070 Appeal of chronic nuisance property.

(1) Any person named in a notice of determination of chronic nuisance property may file a written appeal to the police chief, or director, within 14 calendar days from the date of service of the notice of determination of chronic nuisance.

(2) The written 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; and

(c) The name and address of the appellant and his/her interest(s) in the matter.

(3) An appeal of a determination of chronic nuisance shall not stay the requirement that the specified chronic nuisance activity immediately cease and/or be remedied.

(4) The police chief, or director, shall prepare and transmit to the hearing examiner any appeal of the notice of determination of chronic nuisance, and a hearing shall be scheduled within 60 days of the appeal date. The regulations set forth in Chapter 22G.060 MMC shall apply to the conduct of the hearing and such rules as are promulgated pursuant to MMC 22G.060.080. The party that must bear the cost of the appeal shall be part of the hearing examiner's 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. (Ord. 2970 § 1, 2014).

6.23.080 Owner cooperation.

An owner who received a copy of a notice pursuant to MMC 6.23.060 describing a chronic nuisance property permitted by a person in charge other than the owner or the owner's agent, shall promptly take all reasonable steps requested in writing by the police chief or director to assist in abatement of the nuisance property. Such reasonable steps may include the owner taking all acts and pursuing all remedies, including pursuing eviction of the person in charge, that are:

(1) Available to the owner pursuant to any lease or other agreement; and

(2) Consistent with state and local laws, including but not limited to RCW 59.18.580, Victim protection – Limitation on tenant screening service provider disclosures and landlord's rental decisions. (Ord. 2970 § 1, 2014).

6.23.090 Voluntary compliance plan and correction agreement.

As provided in MMC 6.23.060(1)(e), the property owner of record or the person in charge of the property, if not the owner, is responsible for development and submittal of a written voluntary compliance plan. The police chief, and the director, in consultation with the city attorney, shall review the plan for approval. The plan shall establish, at a minimum, the necessary corrective action(s) to be taken to abate the chronic nuisance activity or activities, deadlines for implementation and completion of the plan.

Upon acceptance of the voluntary compliance plan, the property owner of record or the person in charge of the property, if not the owner, shall enter into a correction agreement. A correction agreement is a contract between the city and the person in charge of the chronic nuisance property in which such person agrees to promptly take all lawful and reasonable actions, which shall be set forth in the agreement to abate the nuisance activities within a specified time and according to specified conditions. The agreement shall be signed by the prop-

erty owner of record or the person in charge of the property, if not the owner. The agreement shall include the following:

(1) The name and address of the property owner of record or the person in charge of the property, if not the owner;

(2) The street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring;

(3) A description of the nuisance activities;

(4) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(5) An agreement by the property owner of record or the person in charge of the property, if not the owner, that the city may inspect the property as may be necessary to determine compliance with the correction agreement;

(6) An agreement by the property owner of record or the person in charge of the property, if not the owner, that the city may abate the nuisance and recover its costs, expenses and monetary penalties pursuant to local and state law from the property owner of record or the person in charge, if not the owner, for the nuisance if the terms of the correction agreement are not met; and

(7) When a person in charge, other than an owner or an owner's agent, has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the police chief and director pursuant to MMC 6.23.080. (Ord. 2970 § 1, 2014).

6.23.100 Enforcement.

(1) Any person in charge of property that has been determined to be a chronic nuisance property is in violation of this chapter and any property owner of record who fails to comply with MMC 6.23.060 shall be subject to the remedies described herein unless he/she can show by clear and convincing evidence that he/she is in compliance with a voluntary compliance plan and correction agreement, as described in MMC 6.23.090.

(2) If the property owner of record or the person in charge of the property does not respond to a notice of determination of chronic nuisance property within the time proscribed, the person responsible shall be issued a civil infraction, punishable by a maximum penalty of $1,000.

(3) If the person responsible does not respond to the issued infraction or continues to violate the provisions of this chapter, including the voluntary compliance plan and correction agreement, the matter shall be referred to the office of the city attorney for further action. The city attorney may initiate legal action to abate the chronic nuisance activity which may include vacating any building and securing it against unauthorized access, use, and occupancy for a period of up to one year, with costs of abatement assessed against the owner and, if applicable, payment of relocation assistance costs as provided in RCW 59.18.085. (Ord. 2970 § 1, 2014).

6.23.110 Additional enforcement provisions.

(1) Nothing in this chapter shall be construed to prevent or prohibit the city from pursuing immediate relief from nuisance activities at a property by any other means available by law, including but not limited to forced abatement under MMC 6.24.060 and an order of the fire code official under MMC Title 9. Penalty and enforcement provisions provided in this chapter shall not be deemed exclusive and the city may pursue any remedy or relief it deems appropriate.

(2) Whenever the city issues a notice of determination of chronic nuisance property to more than one person because of a violation of this chapter, those persons shall be jointly and severally liable.

(3) The failure of the city to prosecute an individual for violation(s) constituting chronic nuisance activities is not a defense to an action under this chapter.

(4) The police chief and the director shall have the authority to promulgate procedures for administering this chapter. (Ord. 2970 § 1, 2014).

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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. 2873 § 2, 2011; 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. 2873 § 2, 2011; 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. 2873 § 2, 2011; Ord. 2046 § 1, 1995).

6.24.040 Penalties and enforcement.

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

(1) It is unlawful for any responsible person or owner to permit, maintain, suffer, carry on or allow a public nuisance to exist, as defined by this chapter, upon his/her premises any act or thing declared a nuisance by this chapter.

(2) The first and second violations shall be a civil infraction under MMC 4.02.040 in the amounts set forth in MMC 4.02.040(3)(g)(ii) and (iii).

(3) The third and subsequent violation of this chapter by the same responsible person within three years of his/her first violation is a criminal misdemeanor and shall carry a penalty of not more than $1,000 (plus costs and assessments) in which $500.00 shall be the minimum, or 90 days in jail, or both.

(4) Each day the violation is in existence may be considered a separate violation. (Ord. 2873 § 2, 2011; Ord. 2046 § 1, 1995).

6.24.050 Types of nuisances.

It shall be a public nuisance within the city of Marysville, and a violation of the Marysville Municipal Code, if any responsible person or per-

1. Prior legislation: Ords. 965 and 1334.

sons shall maintain or allow to be maintained on real property which he or she may have charge, control or occupy, except as may be permitted by any other city ordinance, whether visible or not from any public street, alley or residence, any of the following conditions:

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

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

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

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

(5) No person shall attach to utility poles any of the following: advertising signs, posters, vending machines, or any similar object which presents a hazard to, or endangers the lives of, electrical workers. Any attachment to utility poles shall only be made with the permission of the utility company involved, and shall be placed not less than 12 feet above the surface of the ground.

(6) Accumulations of the following materials in any front yard, side yard, rear yard or vacant lot unless screened from public view from the adjacent frontage street or streets: any and all junk, trash, litter, garbage, boxes, bottles, or cans; any and all unused animal pens or cages, including any type of insect enclosures; and any and all discarded lumber, salvaged materials, or other similar materials, except for such materials being used for an immediate construction project on said premises.

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

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

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

(10) Graffiti, pursuant to Chapter 6.25 MMC.

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

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

(a) Is immobile because it either:

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

(ii) Has one or more flat tires; or

(iii) Is mounted on skids or jacks;

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

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

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

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

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

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

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

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

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

(20) Open storage on premises except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) Whoever shall deposit or place in or upon any premises, public or private, enclosed or common, within the city, any vegetable or animal matter or filth of a character likely to affect the public health, or to produce offensive odors, and whoever shall place or deposit in or upon any such premises the carcass of any dead animal to be or remain unburied within the city limits for more than 24 hours after its death, shall be deemed guilty of creating and maintaining a public nuisance. (Ord. 2950 § 2, 2014; Ord. 2873 § 2, 2011; Ord. 2763 § 2, 2009; Ord. 2046 § 1, 1995).

6.24.060 Forced abatement.

Within 10 days after receiving a written notice and order in accordance with MMC Title 4, any person owning, occupying or controlling such premises who fails, neglects or refuses to correct said nuisance shall be found to be in violation of this chapter. The director may order said nuisance to be removed or abated per MMC Title 4 and all indebtedness to the city for removal shall be paid by the violator(s). Such cost and charges to be recovered by a civil action brought by the city against the violator pursuant to MMC Title 4. (Ord. 2873 § 2, 2011; 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.
6.25.075 Sale or gift of aerosol paint and indelible markers.
6.25.077 Rewards.
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, constitute 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. 2684, 2007; 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) "Indelible marker" shall mean any marker, pen or similar implement containing anything other than a solution which can be removed with water after it dries and having a flat, pointed or angled writing surface of a width of four millimeters or greater.

(5) "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.

(6) "Pressurized container" shall mean any can, bottle, spray device or other mechanism designed to propel liquid which contains ink, paint, dye or other similar substance which is expelled under pressure either through the use of aerosol devices, pumps or similar propulsion devices.

(7) "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. 2684, 2007; 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. 2684, 2007; Ord. 2295 § 1, 1999).

6.25.040 Graffiti – Notice of removal.

(1) Whenever graffiti exists and is visible to any person of normal eyesight utilizing any public road, parkway, alley, sidewalk or other facility open to the general public, the responsible person shall abate such graffiti nuisance within 48 hours of the placement of such graffiti.

(2) Whenever the responsible party fails to abate and remove graffiti as set forth in subsection (1) of this section, and whenever the mayor or his/her designated representative determines that graffiti exists, a notice shall be issued to the responsible person to abate the nuisance by a stated deadline, which shall be no more than 48 hours after the date of the notice unless weather or seasonal conditions require a longer deadline.

(3) 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.

(4) 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. 2684, 2007; 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. 2684, 2007; 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. 2684, 2007; 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 (at the current established hourly rate) 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. 2684, 2007; Ord. 2295 § 1, 1999).

6.25.075 Sale or gift of aerosol paint and indelible markers.

On a voluntary basis, the Marysville city council requests and encourages all businesses within the city and all citizens to refrain from selling, offering to sell, causing to be sold, giving or lending any aerosol paint or pressurized container of paint or any indelible marker to any minor under the age of 18 years. Businesses are encouraged to require picture identification for all persons who may be under the age of 18 years. All businesses who offer for sale aerosol paint or indelible markers are requested to voluntarily restrict access to those items from the public by either placing them behind a locked counter, cabinet or other storage facility so that access to them cannot be gained without their being unlocked by an authorized employee or other authorized representative of such business or by placing them in a location where they can be in constant, uninterrupted view of an authorized employee or other authorized representative of such business. Within one year of the effective date of the ordinance codified in this chapter, the city council shall review the effectiveness of this section and shall consider whether such provisions shall be made mandatory rather than voluntary. (Ord. 2684, 2007).

6.25.077 Rewards.

The city may offer a reward not to exceed $300.00 for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. The actual amount awarded (not to exceed $300.00) shall be determined in the discretion of the chief of police. In the event of damage to public property, the offender or the parents or legal guardian of any unemanicipated minor must reimburse the city for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the city in the manner it shall deem appropriate. Claims for rewards under this section shall be filed with the chief of police or his designee in the manner specified by the Marysville police department. No claim for a reward shall be allowed unless the city investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied. (Ord. 2684, 2007).

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. 2684, 2007; Ord. 2295 § 1, 1999).

Chapter 6.27

CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA

Sections:

6.27.010 Statutes incorporated by reference.
6.27.020 Possession of drug paraphernalia.

6.27.010 Statutes incorporated by reference.

The following statutes regarding controlled substances and drug paraphernalia are incorporated by reference:

RCW	
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.
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.

(Ord. 2767 § 1, 2009; Ord. 2112 § 1, 1997; Ord. 1993 § 4, 1994; Ord. 1382, 1984; Ord. 965 § 20.01, 1977).

6.27.020 Possession of drug paraphernalia.

It is unlawful for any person to use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, as defined by Chapter 69.50 RCW, as now or hereafter amended. Any person who violates this section is guilty of a misdemeanor. (Ord. 2767 § 1, 2009).

Chapter 6.28

STAY OUT OF DRUG AREAS (SODA) ORDERS

Sections:

6.28.010 Orders – Conditions.
6.28.020 Person subject to court order defined.
6.28.025 Stay out of drug areas orders – Issuance – Other court orders.
6.28.030 Violation of order – Penalties.
6.28.040 Prohibited areas – Designation – Modification and termination.

6.28.010 Orders – Conditions.

Any judge or judge pro tempore of the Marysville municipal court may issue written orders to criminal defendants describing conditions of their pretrial release or the post-conviction conditions of suspension or deferral of their sentences. Orders must be substantially in the form described in this chapter. (Ord. 2925 § 1, 2013; Ord. 2886 § 1, 2012).

6.28.020 Person subject to court order defined.

As used in this chapter, "person subject to court order" means any person who is subject to an order issued under MMC 6.28.010. (Ord. 2925 § 1, 2013; Ord. 2886 § 1, 2012).

6.28.025 Stay out of drug areas orders – Issuance – Other court orders.

(1) Any order issued pursuant to this chapter that specifically orders as a condition of pretrial release and/or deferral or suspension of sentence that the defendant stay out of areas with a high level of illegal drug trafficking shall be hereinafter referred to as a "SODA" ("Stay Out of Drug Areas") order.

(2) SODA orders may be issued to anyone charged with or convicted of possession of drug paraphernalia, manufacture/delivery of drug paraphernalia, delivery of drug paraphernalia to a minor, selling/giving drug paraphernalia to another person, possession of marijuana, or any of the aforementioned crimes that occur within a drug-free zone.

(3) Nothing within this section shall be construed as precluding the court from issuing an order pursuant to this chapter that is not specifically a SODA order. (Ord. 2925 § 1, 2013; Ord. 2886 § 1, 2012).

6.28.030 Violation of order – Penalties.

(1) Written orders issued under this chapter shall contain the court's directives and shall bear the legend:

> WARNING: Violation of this order subjects the violator to arrest under Chapter 6.28 MMC and shall constitute a separate criminal offense and may result in imposition of suspended or deferred jail time and/or fine.

(2) Penalties. A person who knowingly and willfully disobeys a SODA ("Stay Out of Drug Areas") order issued under this chapter is guilty of a gross misdemeanor. (Ord. 2925 § 1, 2013; Ord. 2886 § 1, 2012).

6.28.040 Prohibited areas – Designation – Modification and termination.

(1) Whenever an order is issued under this chapter, the subject of the order may be ordered to stay out of certain areas that are set forth within the written order. These areas will hereinafter be referred to as "prohibited areas."

(2) Prohibited areas that are set forth in SODA orders shall be established by a resolution of the city council, at a minimum of every two years. The police department shall provide information to the city council to support establishment and/or the elimination of prohibited areas in the form of one or more declarations and/or other sworn testimony. The declaration(s) and/or other sworn testimony shall:

(a) Be by declarant(s) familiar with areas of the city that suffer a high incidence of drug trafficking activity;

(b) Set forth the education, experience and other relevant qualifications of the declarant(s);

(c) Set forth the basis for proposing prohibited areas, e.g., crime mapping data or other information;

(d) Describe the proposed prohibited areas; and

(e) Provide other information that supports the council's review and determination of prohibited areas.

(3) Prohibited areas that are set forth in orders issued under this chapter other than SODA orders may be set by court discretion and are not required to be set in accordance with subsection (2) of this section.

(4) Upon request for modification or termination of any order issued under this chapter, the court shall consider the requested modification or

termination by allowing for a process by which the subject of the order can provide relevant testimony or other evidence in support of his/her request.

(5) Unless otherwise ordered by the court, an order issued under this chapter shall have as its termination date two years from the date of its issuance.

(6) Whenever an order is issued, modified or terminated pursuant to this chapter, the clerk of the court shall forward a copy of the order on or before the next judicial day to the Marysville police department. Upon receipt of the copy of the order, the Marysville police department shall enter the order until the expiration date specified on the order into any computer-based criminal intelligence information system(s) available to Marysville police officers. Upon receipt of notice that an order has been terminated, the Marysville police department shall remove the order from the computer-based criminal intelligence information system(s).

(7) Nothing in any provision of this chapter related to SODA orders shall be construed as prohibiting the subject of a SODA order from participating in a scheduled court hearing or from attending a scheduled meeting with his/her legal counsel within a prohibited area. (Ord. 2925 § 1, 2013; Ord. 2886 § 1, 2012).

Chapter 6.30

PUBLIC INDECENCY – PROSTITUTION – SEX CRIMES

Sections:

6.30.010 Statutes incorporated by reference.
6.30.020 Definitions.
6.30.025 Lewd conduct.
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. 2888 § 1, 2012; 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. 2888 § 1, 2012; Ord. 2070 § 7, 1996; Ord. 1281 § 2, 1983).

6.30.025 Lewd conduct.

(1) Penalty.

(a) A person is guilty of a misdemeanor lewd conduct if he intentionally performs a lewd act in a public place or at a place and under circumstances where such act could be observed by the public.

(b) The owner or operator of premises open to the public is guilty of a misdemeanor if he intentionally permits lewd conduct in a public place under his control.

(2) "Lewd act" means:

(a) Public exposure of one's genitals, buttocks, or any portion of the female breast below the top of the areola; or

(b) Public touching, caressing or fondling of the genitals or female breast whether clothed or not; or

(c) Public urination or defecation in a place other than a washroom or toilet room; or

(d) Public masturbation; or

(e) Public sexual intercourse; or

(f) Simulation of any such intercourse or such acts as described in subsections (2)(a) through (e) in this section, including but not limited to the use of devices which appear to be male or female genitalia or female breasts to simulate such acts as described in subsections (2)(a) through (e) in this section.

(g) In addition, a person commits the offense of lewd conduct if he or she performs any lewd act when he or she knows or reasonably should know such act is likely to be observed by a person and such act is likely to cause reasonable affront or alarm.

(3) "Public" or "public display" means easily visible from a public thoroughfare or from property of others, or in a public place in manner so obtrusive as to make it difficult for an unwilling person to avoid exposure.

(4) This chapter shall not be construed to prohibit:

(a) Plays, operas, musicals or other dramatic works which are not obscene;

(b) Classes, seminars and lectures held for scientific or education purposes;

(c) Exhibitions or dances which are not obscene;

(d) Breast feeding an infant. (Ord. 2888 § 1, 2012).

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. A violation of this section is a misdemeanor. (Ord. 2888 § 1, 2012; 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. 2888 § 1, 2012; Ord. 1281 § 2, 1983).

6.30.050 Exemptions.

The prohibitions set forth in MMC 6.30.025 through 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. 2888 § 1, 2012; 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. 2888 § 1, 2012; 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. 2888 § 1, 2012; Ord. 1281 § 2, 1983).

6.30.080 Affirmative defenses.

It is an affirmative defense to a prosecution for violation of MMC 6.30.025 through 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. 2888 § 1, 2012; 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 – COERCIVE SOLICITATION

Sections:

6.37.010 Purpose.
6.37.020 Definitions.
6.37.030 Pedestrian interference.
6.37.040 Coercive solicitation – Prohibited.
6.37.045 Time of solicitation.
6.37.047 Place of solicitation.
6.37.050 Penalty.

6.37.010 Purpose.

The purpose of this chapter is to regulate and punish acts of coercive and aggressive begging, and acts of begging that occur at locations or under circumstances specified herein which create an enhanced sense of fear or intimidation in the person being solicited, or pose risk to traffic and public safety. (Ord. 2887 § 1, 2012; Ord. 2156 § 1, 1997).

6.37.020 Definitions.

The following definitions apply in this chapter:

(1) "Aggressively beg" means to beg with the intent to intimidate or coerce another person into giving money or goods.

(2) "Coerce" or "coercive" means to do any of the following with intent:

(a) To approach, speak or gesture to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with a commission of a criminal act upon the person, another person or property in the person's possession; or

(b) To approach within one foot of a person for the purpose of making a solicitation without obtaining said person's initial consent; or

(c) To persist in a solicitation after the person solicited has given a negative response; or

(d) To block the passage of a person, pedestrian traffic, a vehicle or vehicular traffic while making a solicitation; or

(e) To engage in conduct that would reasonably be construed as intended to compel or force a person being solicited to accede to demands; or

(f) To make any false or misleading representation in the course of making a solicitation.

(3) "Intimidate" means to engage in conduct which would make a reasonable person fearful or feel compelled.

(4) "Beg" means to ask for money or goods as a charity, whether by words, bodily gestures, signs, or other means.

(5) "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 Chapter 12.08 or 12.28 MMC, shall not constitute obstruction of pedestrian or vehicular traffic.

(6) "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.

(7) "Solicitation" for the purposes of this chapter is any means of asking, begging, requesting, or pleading made in person, orally or in a written or printed manner, directed to another person, requesting an immediate donation of money, contribution, alms, financial aid, charity, gifts of items or service of value, or the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation. (Ord. 2887 § 1, 2012; Ord. 2156 § 1, 1997).

6.37.030 Pedestrian interference.

A person is guilty of pedestrian interference if, in a public place, he or she intentionally:

(1) Obstructs pedestrian or vehicular traffic; or

(2) Aggressively begs. (Ord. 2887 § 1, 2012).

6.37.040 Coercive solicitation – Prohibited.

It shall be unlawful for a person to make coercive solicitation. (Ord. 2887 § 1, 2012).

6.37.045 Time of solicitation.

It shall be unlawful to make solicitation to pedestrians or motorists on public property or public streets after sunset or before sunrise. (Ord. 2971 § 1, 2014).

6.37.047 Place of solicitation.

(1) It shall be unlawful to solicit at the following places:

(a) On-ramp or off-ramp to state route or interstate highway;

(b) Within 300 feet of the following intersections identified in Exhibit A, attached to the ordinance codified in this section and incorporated by reference:

(i) SR 528 and Cedar Avenue;

(ii) SR 528 and State Avenue;

(iii) SR 528 and 47th Avenue NE;

(iv) SR 528 and 67th Avenue NE;

(v) Grove Street and State Avenue;

(vi) 88th Street and State Avenue;

(vii) 92nd Street and State Avenue;

(viii) 100th Street and State Avenue;

(ix) 116th Street and State Avenue; and

(x) 172nd Street NE and 27th Avenue NE.

(2) It shall be unlawful for a person to sell, or offer for immediate sale, goods, services or publications, or to distribute items without remuneration, to a person in a vehicle, at the following:

(a) On-ramp or off-ramp to state route or interstate highway;

(b) Within 300 feet of the street intersections set forth in subsection (1)(b) of this section and Exhibit A attached to the ordinance codified in this section and incorporated by reference. (Ord. 2971 § 2, 2014).

6.37.050 Penalty.

Pedestrian interference is a misdemeanor. Coercive solicitation is a misdemeanor. Any person violating this chapter shall be punished by a fine not to exceed $1,000 or by imprisonment and jail for not more than 90 days or by both such fine and imprisonment. (Ord. 2887 § 1, 2012).

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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.56.063 Making or possessing motor vehicle theft tools.
9A.56.170 Possessing stolen property in the third degree.
9A.56.180 Obscuring identity of a machine.
9A.56.220 Theft of subscription television services.
9A.56.230 Unlawful sale of subscription television services.
9A.56.240 Forfeiture and disposal of device used to commit violation.
9A.56.260 Connection of channel converter.
9A.56.270 Shopping cart theft.

(Ord. 2734 § 1, 2008; 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.
9A.48.105 Criminal street gang tagging and graffiti.
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. 2748 § 3, 2008; 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.
9.41.240	Possession of pistol by person from eighteen to twenty-one.
9.41.250	Dangerous weapons – Penalty.
9.41.260	Dangerous exhibitions.
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 in 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, and general commercial classifications.

(3) Class C EDNA. Lands involving economic activities of such a nature that higher noise levels than experienced in other areas are 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. 2898 § 11, 2012; 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 community development director, or designee, shall have authority to grant variances from the requirements of this chapter. Variance procedures specified in MMC 22G.010.400 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 community development director, or designee, 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 nonavailability 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. 2968 § 1, 2014; 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 a violation, and a violation shall be punishable as set forth in MMC 4.02.040(3)(g).

(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. 2951 § 6, 2014; 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 prem-

1. Prior legislation: Ordinances 992 and 1565.

ises 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 6.82

PARK CODE

Sections:

6.82.010 Short title.
6.82.015 Applicability.
6.82.020 Definitions.
6.82.025 Construction of provisions.
6.82.030 Regulations issued by director.
6.82.035 Enforcement.
6.82.040 Park hours.
6.82.045 Posting signs.
6.82.050 Defacing property.
6.82.055 Littering prohibited.
6.82.060 Abandonment of animals.
6.82.065 Animals at large.
6.82.070 Weapons.
6.82.075 Feeding animals.
6.82.080 Selling refreshments or merchandise.
6.82.085 Overnight camping prohibited.
6.82.090 Reservation of park and recreational facilities.
6.82.095 Facility use permit – Application.
6.82.100 Facility use permit – Denial.
6.82.105 Parks and recreation facilities – Fee for use.
6.82.110 Boating.
6.82.120 Motor vehicle operation.
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6.82.165 Building fires.
6.82.170 Alcoholic beverages.
6.82.173 Smoking and tobacco use.
6.82.175 Trespass in parks – Punishment.
6.82.180 Principal offender defined.
6.82.185 Park exclusion.
6.82.190 Penalty for violations.

6.82.010 Short title.

This chapter shall constitute the park code of the city of Marysville and may be cited as such. (Ord. 2829 § 1, 2010).

6.82.015 Applicability.

This chapter constitutes the general regulations which will be in effect for all city parks and for all other property under the management of the parks and recreation department. These general regulations are in addition to other applicable city, state, and federal laws and regulations. (Ord. 2829 § 1, 2010).

6.82.020 Definitions.

The terms herein used, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

(1) "Park board" means the members of the parks and recreation board of the city.

(2) "Park" means and includes all city parks, public squares, park drives, parkways, boulevards, golf course, park museums, zoos, bathing beaches, and play and recreation grounds under the jurisdiction of the park board.

(3) "Director" means the director of the city of Marysville parks and recreation department or his/her designee.

(4) "Department" means the city of Marysville parks and recreation department. (Ord. 2829 § 1, 2010).

6.82.025 Construction of provisions.

This chapter is declared to be an exercise of the police power of the state and Marysville for the public peace, health, safety and welfare, and its provisions shall be liberally construed. (Ord. 2829 § 1, 2010).

6.82.030 Regulations issued by director.

(1) The director is authorized to issue rules and regulations for the use of park property, facilities, and equipment.

(2) It is unlawful to violate or fail to comply with any park rule or regulation duly adopted and posted by the director.

(3) The city assumes no liability for the condition of the parks property subject to this chapter and the regulations and rules adopted by the director. (Ord. 2829 § 1, 2010).

6.82.035 Enforcement.

Except as otherwise provided in the park code, city law enforcement personnel are authorized and shall be responsible for enforcing the park code. (Ord. 2829 § 1, 2010).

6.82.040 Park hours.

Except as otherwise posted or permitted, city parks shall be open to the public from 6:30 a.m. to dusk, and shall be closed to the public at all other times. (Ord. 2829 § 1, 2010).

6.82.045 Posting signs.

It is unlawful to use, place or erect any signboard, sign, billboard, bulletin board, post, pole or device of any kind of advertising in any park; or to attach any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, railing, post or structure in any park; or, without the written consent of the director, to place or erect in any park a structure of any kind; provided, however, that the director may approve the posting of temporary directional signs or decorations on occasions of public celebration and picnics. (Ord. 2829 § 1, 2010).

6.82.050 Defacing property.

It is unlawful for any person, except an authorized employee or agent of the city, to remove, destroy, mutilate or deface any park property, structure, facility or station. This prohibition applies to all aspects of the natural or landscaped environment and to any structure, object, equipment, improvement, or other park property. (Ord. 2829 § 1, 2010).

6.82.055 Littering prohibited.

(1) No person shall throw or deposit litter on any park property, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park, or upon any street or other public place. Where public receptacles are not provided, all litter shall be carried away and properly disposed of.

(2) No person shall use department litter receptacles in the following manner:

(a) No person shall damage, deface, abuse, or misuse any litter receptacle so as to interfere with its proper function or detract from its proper appearance.

(b) No person shall deposit leaves, clippings, prunings, or gardening refuse in any litter receptacle.

(c) No person shall deposit household garbage in any litter receptacle; provided, that this subsection shall not be construed to mean that wastes of food consumed on park property may not be deposited in litter receptacles.

(3) Whenever litter dumped in violation of this chapter contains three or more items bearing the name of one individual, there shall be a rebuttable presumption that the individual whose name appears on such items committed the unlawful act of littering.

(4) For purposes of this section, "litter" means garbage, refuse, rubbish, or any other waste material which, if thrown or deposited as prohibited in

this section, tends to create a nuisance which annoys, injures, or endangers the health, safety, or comfort of the public.

(5) A violation of this section is a civil infraction and shall be enforced in accordance with MMC 4.02.040.

(6) The amount of the civil infraction fine for any person littering in an amount less than or equal to one cubic foot shall be $50.00, not including statutory assessments; the fine for any person littering in an amount greater than one cubic foot shall be $250.00, not including statutory assessments. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of $25.00 per cubic foot of litter. The court may, in addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property. (Ord. 2829 § 1, 2010).

6.82.060 Abandonment of animals.

No person shall abandon an animal by intentionally, knowingly, recklessly or with criminal negligence leaving a domesticated animal in a park. (Ord. 2829 § 1, 2010).

6.82.065 Animals at large.

(1) It is unlawful for any person to allow or permit any animal to be at large in any park, except dog guides or service animals, as defined in Chapter 70.84 RCW (White Cane Law), or those animals used by a law enforcement officer; provided, that except in areas in which animals are prohibited, animals are permitted in a park if on a leash not greater than 10 feet in length, or otherwise securely caged or securely restrained.

(2) The director may ban dogs and other pets from areas of any park where the director determines it appropriate.

(3) Any person with any animal in his or her possession in any park shall be responsible for the conduct of the animal and shall not allow the animal to bite or otherwise molest or annoy other park visitors.

(4) Any person with an animal in his or her possession in any park shall carry equipment for removing fecal matter, and shall collect and place fecal matter deposited by such animal in an appropriate receptacle.

(5) Notwithstanding subsection (1) of this section, the director may designate certain areas in parks as allowing dogs and/or other pets to be off leash. (Ord. 2829 § 1, 2010).

6.82.070 Weapons.

It is unlawful to shoot or fire any firearm, air gun, bows and arrows, B.B. gun or use any slingshot in any park; provided, this section shall not apply to law enforcement personnel or to department of parks and recreation employees acting pursuant to and in accordance with rules and regulations of the director; and provided further, that this section shall not apply to participants in a parks and recreation program which, as a component of the program, includes the use of such weapons; and provided further, that this section shall not apply to hunters accessing areas designated for purposes of hunting in accordance with Washington State Department of Fish and Wildlife regulations. (Ord. 2829 § 1, 2010).

6.82.075 Feeding animals.

It is unlawful to tease, annoy, disturb, molest, catch, hunt, trap, injure or kill any animal, bird, fowl or fish unless said activity is on behalf of the city by a representative or agent of the city to remove or control a nuisance or hazardous situation. This provision shall not prevent fishing except in areas so designated by the city council. It shall be unlawful to feed and/or remove ducks, geese or other waterfowl in any public park and/or beach area. (Ord. 2829 § 1, 2010).

6.82.080 Selling refreshments or merchandise.

(1) The sale of food, drink, other merchandise, or any services on park property is prohibited, unless the seller has either written permission from the director, or a concession sales contract with the city.

(2) The rental of any merchandise or materials on park property is prohibited, unless the renter has written permission from the director or a concession contract with the city. (Ord. 2829 § 1, 2010).

6.82.085 Overnight camping prohibited.

Except as otherwise permitted by the director, overnight camping is prohibited within city parks. (Ord. 2829 § 1, 2010).

6.82.090 Reservation of park and recreational facilities.

City parks and recreational facilities are available for public use in accordance with this chapter and park rules and regulations. Reservations for use of these facilities is required for any community special or private event involving more than routine use of such facilities. Park facilities may

only be reserved a total of 12 times within a calendar year by any person, group or nonprofit organization. (Ord. 2829 § 1, 2010).

6.82.095 Facility use permit – Application.

Reservations as required in MMC 6.82.090 shall be made by obtaining a permit through the office of the director of parks and recreation. A facility use permit may be obtained by submitting a written application and an executed facility use agreement to the director's office, at least 14 working days prior to the day of the intended use. The application and facility use agreement shall contain such information, terms and conditions as the director shall deem necessary to ensure compliance with MMC 6.82.090 through 6.82.100 and/or any other applicable laws, regulations and city policies. (Ord. 2829 § 1, 2010).

6.82.100 Facility use permit – Denial.

Applications that are submitted in a timely manner and that are complete will be denied, approved or approved with conditions within seven calendar days prior to the date scheduled for the event. Denial of applications will be based on one or more of the following:

(1) The space had already been applied to for reservation at the time of the application submission; or

(2) The event or assembly for which the permit is sought would, because of its time, place or nature, obstruct or substantially interfere with the enjoyment and use by the general public; or

(3) The event or assembly for which a permit is sought is in violation of MMC 6.82.090 through 6.82.100 and/or any other applicable ordinance, law and/or regulation. The director shall have authority to approve a permit subject to the applicant meeting reasonable conditions consistent with MMC 6.82.090 through 6.82.100 and city ordinances, regulations and/or policies as now exist or are hereafter amended. (Ord. 2829 § 1, 2010).

6.82.105 Parks and recreation facilities – Fee for use.

Users are required to pay fees for the use of city parks and recreation facilities as are established by city ordinances, resolution, regulations and/or policies as now exist or are hereafter amended. (Ord. 2829 § 1, 2010).

6.82.110 Boating.

It is unlawful to have, keep or operate any boat, float, raft or other watercraft in or upon any bay, lake, pond, slough, river or creek, within the limits of any park, or to land the same on any point upon the shores thereof bordering upon any park, except at places set apart for such purposes by the parks director and so designated by signs. Further, it is unlawful for any person to moor any watercraft overnight in any park, except by permit of the parks director or his or her designee. (Ord. 2829 § 1, 2010).

6.82.120 Motor vehicle operation.

(1) The general speed limit for all motor vehicles and motorcycles within city parks is five miles per hour unless otherwise posted by the director.

(2) Motor vehicles and motorcycles may be operated only on paved roadways. "Paved roadways" as used in this subsection does not include paved ways marked by the director for the exclusive use of pedestrians, bicycles, or wheelchairs. (Ord. 2829 § 1, 2010).

6.82.125 Parking.

Motor vehicles shall park only in designated paved or graveled parking areas. Parking spaces within city parks are reserved for the use of park patrons during open park hours; parking during closed park hours, overnight parking, and residential parking on park property is prohibited. Nor shall any person park any vehicle in any park for the principal purpose of washing, greasing, or repairing such vehicle except repairs necessitated by an emergency. (Ord. 2829 § 1, 2010).

6.82.130 Bicycle operation.

Except as otherwise posted or permitted by the director, bicycles, tricycles and unicycles may be operated and ridden only on paved and graveled ways within city parks, and shall not be operated and ridden on trails within the city parks. (Ord. 2829 § 1, 2010).

6.82.135 Skateboarding.

Unless otherwise posted by the director, it is unlawful to use skateboards, in-line skates, roller skates, or bicycles on trails, paths or internal sidewalks of city parks. It is unlawful to use skateboards, in-line skates, roller skates, or bicycles in any other area of a park if so posted. (Ord. 2829 § 1, 2010).

6.82.140 Noise.

(1) No person shall, without prior written approval of the parks director or authorized parks department employee, cause or allow to be emitted noise in a park which:

(a) Exceeds the maximum permissible noise levels set forth in MMC 6.76.040; or

(b) Is a motor vehicle noise specifically prohibited by MMC 6.76.060 or 6.76.070; or

(c) Is a disturbance noise or a nuisance noise as set forth in MMC 6.76.060.

(2) For purposes of this section, the definitions provided in MMC 6.76.020 shall apply and are incorporated herein by this reference.

(3) The penalties for violations of this section and enforcement thereof shall be in accordance with MMC 6.76.090. (Ord. 2829 § 1, 2010).

6.82.145 Remote control models, hang gliders, hot air balloons.

It is unlawful to operate any remote control and/or motorized model aircraft, rocket, watercraft or similar device in any park, or to launch or land any hang glider or hot air balloon, except at places set apart by the parks director for such purposes or as authorized by a permit from the parks director. (Ord. 2829 § 1, 2010).

6.82.150 Urinating in public.

A person is guilty of urinating in public in a city park if he or she intentionally urinates or defecates in a city park in a place other than a wash room or toilet room. (Ord. 2829 § 1, 2010).

6.82.155 Trail use.

Unless otherwise posted, it is unlawful to use bicycles or other similar wheeled vehicles on unpaved trails. Further, it is unlawful for any person to travel on a trail at a speed greater than five miles per hour. In every event, speed shall be so controlled as may be necessary to avoid colliding with others who are complying with the law and using reasonable care. Travel at speeds five miles per hour or less shall not relieve the rider from maintaining control of themselves and their equipment, and from the duty to ride with due regard for the safety of all persons. (Ord. 2829 § 1, 2010).

6.82.160 Golfing, baseball, etc.

It is unlawful to practice or play golf, baseball, cricket, polo, archery, hockey, tennis, or other games of like character or to hurl or propel any airborne or other missile except at places set apart for such purposes by the parks director. (Ord. 2829 § 1, 2010).

6.82.165 Building fires.

It is unlawful to build any fires in any park except in areas constructed, maintained and designated by the director. (Ord. 2829 § 1, 2010).

6.82.170 Alcoholic beverages.

It is unlawful for any person to consume or possess any alcoholic beverage in a city park, including unopened alcoholic beverage containers, except in those areas and/or at those events for which the appropriate license(s)/permit(s) has been obtained from the state of Washington and a permit has been issued by the director. (Ord. 2829 § 1, 2010).

6.82.173 Smoking and tobacco use.

It is unlawful for any person to smoke or light cigars, cigarettes, tobacco or other smoking material within city parks. The director shall post signs in appropriate locations prohibiting smoking in the city's parks. (Ord. 2919 § 1, 2013).

6.82.175 Trespass in parks – Punishment.

(1) It shall constitute a trespass in a city park if any person knowingly: (a) enters or remains in a park from which he or she has been excluded during the period covered by an exclusion notice pursuant to MMC 6.82.185; (b) enters, remains in, or is otherwise present within the premises of a park during hours which the park or portion of the park is not open to the public, unless the person is present within the park to participate in an activity either conducted by the parks and recreation department or conducted pursuant to the terms of a permit issued by the parks and recreation department; or (c) enters or remains in any area of a park which has been designated and posted by the director as a closed area, using such postings as "no admittance" or "closed to use" or "no trespassing."

(2) Unless otherwise posted, city parks are open to the public from 6:30 a.m. to dusk. The parks are closed to the public outside of posted times. The director shall have the authority to modify the time a city park is open and closed to the public where the director determines it appropriate.

(3) The provisions of this section do not apply to any duly authorized department of parks and recreation or other city employee in the performance of his or her duties, or other person authorized by law. (Ord. 2829 § 1, 2010).

6.82.180 Principal offender defined.

Anyone concerned in the violation of this chapter whether directly committing the act or omitting to do the thing constituting the offense, or who aids or abets the same, and whether present or absent, and anyone who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such offense, is

and shall be a principal under the terms of this chapter and shall be proceeded against and prosecuted as such. (Ord. 2829 § 1, 2010).

6.82.185 Park exclusion.

(1) The parks director and his/her designees are empowered to exercise the authority of law enforcement personnel to the extent necessary to enforce this section.

(2) The parks director or his/her designees may, by delivering an exclusion notice in person to the offender, or by first class mail and certified mail to the offender at the offender's last known address, exclude from a city park anyone who within a city park:

(a) Violates any provision of this chapter; or

(b) Violates any park rule; or

(c) Violates any provision of the Marysville Municipal Code or Revised Code of Washington.

The offender need not be charged, tried, or convicted of any crime or infraction in order for an exclusion notice to be issued or be effective. The exclusion may be based upon observation by the parks director or his/her designee or upon civilian reports that would ordinarily be relied upon by police officers in the determination of probable cause.

(3) If the offender:

(a) Has not been excluded from any city park by an exclusion notice issued within one year prior to the violation and the current violation is not a weapon violation, then the parks director or his/her designee may exclude the offender from the city park in which the current violation occurred for a period not exceeding seven calendar days from the date of the exclusion notice.

(b) Has been the subject of only one prior exclusion notice issued within one year prior to the current violation and neither the current nor the past violation was a weapon violation, then the parks director or his/her designee shall exclude the offender from any or all city parks for a period of 90 calendar days from the date of the exclusion notice.

(c) Has been the subject of two or more prior exclusion notices issued within one year prior to the current violation or, if the current violation is a weapon violation, then the parks director or his/her designee shall exclude the offender from any or all city parks for a period of one year from the date of the exclusion notice.

(4) The exclusion notice shall be in writing and shall contain the date of issuance. The exclusion notice shall specify the length and places of exclusion. It shall be signed by the issuing individual. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

(5) Only the parks director or his/her designee after a hearing may rescind, shorten or modify an exclusion notice.

(6) An offender receiving an exclusion notice longer than seven calendar days may seek a hearing to have the exclusion notice rescinded, the period of exclusion shortened, or the areas of exclusion reduced. The hearing examiner shall be an elected or pro tempore Marysville municipal court judge, unless the mayor designates another as hearing examiner. The request for a hearing shall be delivered to the parks director or postmarked no later than seven calendar days after the issuance date of the exclusion notice. The request for hearing shall be in writing and shall be accompanied by a copy of the exclusion notice on which the hearing is sought. The hearing should occur within seven calendar days after the parks director receives the request for hearing. The parks director or his/her designee shall take reasonable steps to notify the offender of the date, time, and place of the hearing.

(7) At the hearing, the violation must be proved by a preponderance of the evidence in order to uphold the exclusion notice. If the exclusion notice was issued because of the alleged violation of any criminal law, the offender need not be charged, tried, or convicted for the exclusion notice to be upheld. The exclusion notice establishes a prima facie case that the offender committed the violation as described. The hearing examiner shall consider a sworn report or a declaration made under penalty of perjury, written by the individual who issued the exclusion notice, without further evidentiary foundation. The hearing examiner may consider information that would not be admissible under the evidence rules in a court of law but which the hearing examiner considers relevant and trustworthy.

(8) If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the hearing examiner may shorten the duration of the exclusion or reduce the areas covered by the exclusion. If the violation is not proved by a preponderance of the evidence, the hearing examiner shall rescind the exclusion. If the hearing examiner rescinds an exclusion, the exclusion shall not be considered a prior exclusion for purposes of subsection (3) of this section.

(9) The decision of the hearing examiner is final. An offender seeking judicial review of hearing examiner's decision must file an application for

a writ of review in the Snohomish County superior court within 15 calendar days of the date of that decision.

(10) The exclusion shall remain in effect during the pendency of any administrative or judicial proceeding.

(11) No determination of facts made by a person conducting a hearing under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

(12) This section shall be enforced so as to emphasize voluntary compliance with laws and park rules, and so that inadvertent minor violations that would fall under subsections (2)(a) and (b) of this section can be corrected without resort to an exclusion notice. (Ord. 2829 § 1, 2010).

6.82.190 Penalty for violations.

(1) A violation of any of the provisions of MMC 6.82.030, 6.82.045, 6.82.055, 6.82.065, 6.82.075, 6.82.080, 6.82.085, 6.82.090, 6.82.095, 6.82.105, 6.82.110, 6.82.120, 6.82.125, 6.82.130, 6.82.135, 6.82.145, 6.82.155, 6.82.160, 6.82.165, and 6.82.173 constitutes a civil infraction and shall be enforced in accordance with MMC 4.02.040. The amount of civil infraction fine shall be assessed in accordance with the schedule provided in MMC 4.02.040(3)(g)(ii) and shall not exceed $500.00 per violation.

(2) A violation of any of the provisions of MMC 6.82.050, 6.82.060, 6.82.070, 6.82.150, 6.82.170, and 6.82.175 is a misdemeanor, and may 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.

(3) The penalty for a violation of other sections of this chapter is as provided in those respective sections. (Ord. 2919 § 2, 2013; Ord. 2829 § 1, 2010).

Title 7

HEALTH AND SANITATION[1]

Chapters:

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 7.05

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.

Provided further, the public works director in consultation with the director of community development may administratively exempt from compulsory garbage service specific properties or areas which are rural in nature until such time as the property or area becomes urbanized by virtue of being developed or subdivided into urban densities.

In the event any 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, or in the case of an administratively granted exemption where the property or area has become urbanized, the property shall then become subject to the mandatory garbage provisions of this section. (Ord. 2940 § 1, 2013; 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 rear-end-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.

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(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) Within but no sooner than 24 hours of the time 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.

(4) On the day of collection, after the garbage is collected it shall be the duty of each garbage customer to remove all garbage containers from the accessible place abutting the street or alley as referenced in subsection (1) of this section. Any container not so removed within two business days may be removed by the utility, and a fee will be charged to redeliver the container. (Ord. 2765 § 1, 2009; 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.

A. Effective July 1, 2009, 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:
$15.92 – for one mini-can – 20-gallon insert into 36-gallon cart
$19.73 – for one 36-gallon cart
$32.92 – for one 64-gallon cart
$46.11 – for one 96-gallon cart

(2) Monthly pickup – Each dwelling unit:
$9.59 – for one 36-gallon cart

(3) Extra pickup:
$5.34 for each additional can or excess refuse bag per pickup

(4) Low-income senior citizen rate:
$12.43 – for one 20- or 36-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 – $88.84/month (or $22.21/pickup)

One and one-half cubic yards – $120.67/month (or $30.17/pickup)

Two cubic yards – $153.15/month (or $38.29/pickup)

Three cubic yards – $209.72/month (or $52.43/pickup)

Four cubic yards – $233.92/month (or $58.48/pickup)

Six cubic yards – $317.63/month (or $79.41/pickup)

Eight cubic yards – $411.91/month (or $102.98/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

B. Effective January 1, 2010, 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:

$17.35 – for one mini-can – 20-gallon insert into 36-gallon cart

$21.51 – for one 36-gallon cart

$35.88 – for one 64-gallon cart

$50.26 – for one 96-gallon cart

(2) Monthly pickup – Each dwelling unit:

$10.46 – for one 36-gallon cart

(3) Extra pickup:

$5.82 for each additional can or excess refuse bag per pickup

(4) Low-income senior citizen rate:

$13.55 – for one 20- or 36-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 – $96.83/month (or $24.21/pickup)

One and one-half cubic yards – $131.53/month (or $32.88/pickup)

Two cubic yards – $166.93/month (or $41.73/pickup)

Three cubic yards – $228.59/month (or $57.15/pickup)

Four cubic yards – $254.97/month (or $63.74/pickup)

Six cubic yards – $346.21/month (or $86.55/pickup)

Eight cubic yards – $448.99/month (or $112.25/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

C. Effective January 1, 2011, 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:

$18.91 – for one mini-can – 20-gallon insert into 36-gallon cart

$23.44 – for one 36-gallon cart

$39.11 – for one 64-gallon cart

$54.78 – for one 96-gallon cart

(2) Monthly pickup – Each dwelling unit:
$11.40 – for one 36-gallon cart

(3) Extra pickup:
$6.34 for each additional can or excess refuse bag per pickup

(4) Low-income senior citizen rate:
$14.77 – for one 20- or 36-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 – $105.55/month (or $26.39/pickup)
One and one-half cubic yards – $143.36/month (or $35.84/pickup)
Two cubic yards – $181.95/month (or $45.49/pickup)
Three cubic yards – $249.17/month (or $62.29/pickup)
Four cubic yards – $277.92/month (or $69.48/pickup)
Six cubic yards – $377.37/month (or $94.34/pickup)
Eight cubic yards – $489.39/month (or $122.35/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

D. Effective January 1, 2012, 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:
$19.86 – for one mini-can – 20-gallon insert into 35-gallon cart
$24.61 – for one 36-gallon cart
$41.07 – for one 64-gallon cart
$57.52 – for one 96-gallon cart

(2) Monthly pickup – Each dwelling unit:
$11.97 – for one 36-gallon cart

(3) Extra pickup:
$6.66 for each additional can or excess refuse bag per pickup

(4) Low-income senior citizen rate:
$15.50 – for one 20- or 36-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 – $110.82/month (or $27.71/pickup)
One and one-half cubic yards – $150.53/month (or $37.63/pickup)
Two cubic yards – $191.05/month (or $47.76/pickup)
Three cubic yards – $261.62/month (or $65.41/pickup)
Four cubic yards – $291.81/month (or $72.95/pickup)
Six cubic yards – $396.24/month (or $99.06/pickup)
Eight cubic yards – $513.86/month (or $128.47/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. 2779 §§ 1 – 4, 2009; 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.

A. Effective July 1, 2009, 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 $8.18 for the first container and $2.18 for each additional container.

B. Effective January 1, 2010, 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 $8.91 for the first container and $2.38 for each additional container.

C. Effective January 1, 2011, 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 $9.72 for the first container and $2.59 for each additional container.

D. Effective January 1, 2012, 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 $10.20 for the first container and $2.72 for each additional container. (Ord. 2779 §§ 1 – 4, 2009; 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 punished as set forth in MMC 4.02.040(3)(g). (Ord. 2951 § 7, 2014; 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

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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.
9.04.070 Additional amendments to the International Fire Code.
9.04.101 International Fire Code Appendices adopted.
9.04.105 International Fire Code Section 105, Permits, amended.
9.04.109.3 Violation penalties – Amended International Fire Code Section 109.3.
9.04.109.4 Section 109.4 – Excessive false alarms, penalty imposed.
9.04.503 Additional sections of International Fire Code Section 503 adopted – Fire apparatus access roads.
9.04.503.1.4 Section 503.1.4 added – Aerial fire apparatus access roads.
9.04.503.1.5 Section 503.1.5 added – One- or two-family dwelling residential developments.
9.04.503.2 International Fire Code Section 503.2 amended – Access – Specifications.
9.04.503.2.3 International Fire Code Section 503.2.3 amended – Access – Surfacing.
9.04.503.2.4 International Fire Code Section 503.2.4 amended – Access – Turning radius.
9.04.503.2.5 International Fire Code Section 503.2.5 amended – Access – Turnarounds.
9.04.503.2.7 International Fire Code Section 503.2.7 amended – Access – Gradients.
9.04.503.5 International Fire Code Section 503.5 amended – Required gates or barricades.
9.04.503.6 International Fire Code Section 503.6 amended – Gates accessing residential developments.
9.04.503.7 International Fire Code new Section 503.7 added – Split entries.
9.04.505 International Fire Code Section 505.1, Address identification, amended.
9.04.507.3 International Fire Code Section 507.3, Fire flow, amended.
9.04.507.5 International Fire Code Section 507.5.1, Fire hydrant location, not adopted.
9.04.510 International Fire Code Section 510, Emergency responder radio coverage, amended.
9.04.601 International Fire Code Section 601.2, Permits, amended.
9.04.602 International Fire Code Section 602.1, Definitions, amended – Power tap.
9.04.605 International Fire Code Section 605, Electrical equipment, amended to add 605.11.
9.04.902 International Fire Code Section 902.1, Definitions, amended.
9.04.903 International Fire Code Section 903.2 amended – Sprinkler systems – Where required.
9.04.903.2.1 International Fire Code Section 903.2.1 amended – Sprinkler systems – Group A occupancies.
9.04.903.2.3 International Fire Code Section 903.2.3 amended – Sprinkler systems – Group E occupancies.
9.04.903.2.4 International Fire Code Section 903.2.4 amended – Sprinkler systems – Group F-1 occupancies.
9.04.903.2.7 International Fire Code Section 903.2.7 amended – Sprinkler systems – Group M and B occupancies.
9.04.903.2.8 International Fire Code Section 903.2.8 amended – Sprinkler systems – Group R occupancies.
9.04.903.2.9 International Fire Code Section 903.2.9 and 903.2.10 amended – Sprinkler systems – Group S occupancies.

Prior legislation: Ords. 850, 1082, 1373 and 2377.

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, 2009 Edition," (IFC) 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. 2875 § 2, 2011).

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. 2875 § 2, 2011).

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, E, H, F, I (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, 2009 Edition. (Ord. 2875 § 2, 2011).

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 3404.2.9.6.1 and 3406.2.4.4. (Ord. 2875 § 2, 2011).

9.04.070 Additional amendments to the International Fire Code.

The additional amendments to the fire code in MMC 9.04.101 through 9.04.903.2.9 are enacted. (Ord. 2875 § 2, 2011).

9.04.101 International Fire Code Appendices adopted.

These appendices of the International Fire Code are hereby adopted: B, F, H, I, and J. (Ord. 2875 § 2, 2011).

9.04.105 International Fire Code Section 105, Permits, amended.

New Section 105.7.15 added – Solar photovoltaic power systems:

> 105.7.15 Solar photovoltaic power systems. A construction permit is required to install or modify solar photovoltaic power systems.

(Ord. 2875 § 2, 2011).

9.04.109.3 Violation penalties – Amended International Fire Code Section 109.3.

(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, severally, for each and every such violation and noncompliance respectively, shall be punished as set forth in MMC 4.02.040(3)(g). 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 penalties herein described shall not be held to prevent the enforced removal of prohibited conditions. (Ord. 2951 § 8, 2014; Ord. 2875 § 2, 2011).

9.04.109.4 Section 109.4 – 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 punished as set forth in MMC 4.02.040(3)(g). (Ord. 2951 § 9, 2014; Ord. 2875 § 2, 2011).

9.04.503 Additional sections of International Fire Code Section 503 adopted – Fire apparatus access roads.

Section 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 (2009 Edition) not adopted by the Washington State Building Code Council, are hereby adopted and enacted in the city of Marysville. (Ord. 2875 § 2, 2011).

9.04.503.1.4 Section 503.1.4 added – Aerial fire apparatus access roads.

503.1.4 Where Required. Buildings or portions of buildings or facilities exceeding 30 feet (9,144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

503.1.4.1 Width. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7,925 mm) in the immediate vicinity of any building or portion of building more than 30 feet (9,144 mm) in height.

503.1.4.2 Proximity to building. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4,572 mm) and a maximum of 30 feet (9,144 mm) from the building, and shall be positioned parallel to one entire side of the building.

(Ord. 2875 § 2, 2011).

9.04.503.1.5 Section 503.1.5 added – One- or two-family dwelling residential developments.

503.1.5 Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved, unobstructed fire apparatus access roads and shall be placed a distance apart equal to not less than one half of the length of maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.

Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 access from two directions shall not be required.

2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.

(Ord. 2875 § 2, 2011).

9.04.503.2 International Fire Code Section 503.2 amended – Access – Specifications.

Section 503.2.1, Dimensions, is amended to add:

Where a fire hydrant or fire department connection is located on a fire apparatus access road, the minimum road width shall be increased to 26', extending 20' on either side of a fire hydrant or fire department connection.

(Ord. 2875 § 2, 2011).

9.04.503.2.3 International Fire Code Section 503.2.3 amended – Access – Surfacing.

Section 503.2.3 adopted by MMC 9.04.503 is further amended to add an additional sentence reading as follows:

The surface shall be entirely composed of gravel, crushed rock, asphalt or concrete, and designed to support the imposed load of fire apparatus weighing at least 75,000 pounds.

(Ord. 2875 § 2, 2011).

9.04.503.2.4 International Fire Code Section 503.2.4 amended – Access – Turning radius.

Section 503.2.4 adopted by MMC 9.04.503 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 De-

> sign and Development Standards for the City of Marysville.

(Ord. 2875 § 2, 2011).

9.04.503.2.5 International Fire Code Section 503.2.5 amended – Access – Turnarounds.

Section 503.2.5 adopted by MMC 9.04.503 is further amended to add an additional three sentences reading as follows:

> Turnarounds shall be a minimum eighty (80) foot diameter cul-de-sac with no obstructions within the cul-de-sac. Planters may be installed in cul-de-sacs when the outside radius of the cul-de-sac is a minimum of fifty (50) feet and inside radius is minimum of 25 (twenty five) feet. An approved hammerhead turnaround may be used if there are no alternatives, and it is approved by the Fire Chief.

(Ord. 2875 § 2, 2011).

9.04.503.2.7 International Fire Code Section 503.2.7 amended – Access – Gradients.

Section 503.2.7 adopted by MMC 9.04.503 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. 2875 § 2, 2011).

9.04.503.5 International Fire Code Section 503.5 amended – Required gates or barricades.

Section 503.5 is amended by adding:

> Entrances to roads, trails or other access ways which have been closed with gates and barriers shall not be obstructed by parked vehicles.

(Ord. 2875 § 2, 2011).

9.04.503.6 International Fire Code Section 503.6 amended – Gates accessing residential developments.

Section 503.6 is amended by adding:

> Gates installed in a residential community shall be equipped with a strobe activating device. Minimum gate width opening shall be 20 feet. The gate is required to open automatically with the approach of emergency vehicles. In the event of a loss of power, the gate shall open automatically and remain in the open position until power is restored. The gate shall remain in the open position until such time that the power is restored.
>
> Exemption: 5 or fewer dwelling units.

(Ord. 2875 § 2, 2011).

9.04.503.7 International Fire Code new Section 503.7 added – Split entries.

Section 503.7, Split Entries.

> Split entries to plats, short plats, commercial development and other sites requiring emergency vehicle access, shall be allowed where each aisle (lane) is at least 14 (fourteen) feet in width.

(Ord. 2875 § 2, 2011).

9.04.505 International Fire Code Section 505.1, Address identification, amended.

Section 505.1 is amended to add the following:

> (1) Address numbers for commercial buildings to be a minimum of six inches high with a principal stroke of at least three-quarters inch.
>
> (2) Where the building is not visible from the street or a single access road or private roadway serves more than one building, provision shall be made to clearly identify which driveway or roadway serves the appropriate address.
>
> (3) Address numbers at least four inches high shall be prominently displayed on rear entrance or access doors when required by the fire code official.
>
> (4) Interior and exterior access doors or individual dwelling, housekeeping, living units, or commercial tenant spaces also shall be clearly marked. Numbers and/or letters of such units shall be at least four inches high.
>
> (5) Address Numbering Size Table

Distance from Road or Fire Lane	Minimum Size
0-50 feet	4"
51-100 feet	6"

Distance from Road or Fire Lane	Minimum Size
101-150 feet	8"
151-200 feet	10"
201-300 feet	12"
301 feet and up	18"

Four inch numbers are permitted for single-family and duplex occupancies only. The minimum size figure for commercial occupancies is six inches. The height to width ratio of the figures shall be approximately 2H:1W.

(Ord. 2875 § 2, 2011).

9.04.507.3 International Fire Code Section 507.3, Fire flow, amended.

(1) Replace "by an approved method" with "per Appendix B of the International Fire Code."

(2) Exceptions. Section 507.3 is amended to add two exceptions reading as follows:

Exceptions:

(2) Subdivisions and short subdivisions in which all lots have a lot area of 43,560 square feet (one acre) or more in size;

(3) 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. 2875 § 2, 2011).

9.04.507.5 International Fire Code Section 507.5.1, Fire hydrant location, not adopted.

Fire hydrant locations to be installed per MMC 14.03.050. (Ord. 2875 § 2, 2011).

9.04.510 International Fire Code Section 510, Emergency responder radio coverage, amended.

International Fire Code Section 510 Emergency Responder Radio Coverage is amended to include adoption of Appendix J. (Ord. 2875 § 2, 2011).

9.04.601 International Fire Code Section 601.2, Permits, amended.

Solar photovoltaic power systems permit is added. Section 601.2 is amended by adding:

A construction permit is required to install or modify Solar photovoltaic power systems as set forth in Section 105.7.

(Ord. 2875 § 2, 2011).

9.04.602 International Fire Code Section 602.1, Definitions, amended – Power tap.

Add definition to Section 602.1:

Power Tap means a listed device for indoor use consisting of an attachment plug on one end of a flexible cord and two or more receptacles on the opposite end, and has overcurrent protection.

(Ord. 2875 § 2, 2011).

9.04.605 International Fire Code Section 605, Electrical equipment, amended to add 605.11.

Section 605.11 added – Solar Photovoltaic Power Systems:

605.11 Solar Photovoltaic Power Systems. Solar photovoltaic power systems shall be installed in accordance with this code, the International Building Code and NFPA 70.

605.11.1 Marking. Marking is required on all interior and exterior dc conduit, enclosures, raceways, cable assemblies, junction boxes, combiner boxes, and disconnects.

605.11.1.1 Materials. The materials used for marking shall be reflective, weather resistant and suitable for the environment. Marking as required in sections 605.11.1.2 through 605.11.1.4 shall have all letters capitalized with a minimum height of 3/8 inch (9.5 mm) white on red background.

605.11.1.2 Marking content. The marking shall contain the words WARNING: PHOTOVOLTAIC POWER SOURCE.

605.11.1.3 Main service disconnect. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect is operated.

605.11.1.4 Location of Marking. Marking shall be placed on all interior and exterior dc conduit, raceways, enclosures and cable assemblies every 10 feet (3,048 mm) within 1 foot (305 mm) of all turns or bends and within 1 foot (305 mm) above and below all penetrations of roof/ceiling assemblies and all walls and /or barriers.

605.11.2 Locations of DC conductors. Conduit, wiring systems, and raceways for photovoltaic circuits shall be located as close as possible to the ridge or hip or valley and from the hip or valley as directly as possible to an outside wall to reduce trip hazards and maximize ventilation opportunities. Conduit runs between sub arrays and to DC combiner boxes shall be installed in a manner that minimizes total amount of conduit on the roof by taking the shortest path from the array to the DC combiner box. The DC combiner boxes shall be located such that conduit runs are minimized in the pathways between arrays. DC wiring shall be installed in metallic conduit or raceways when located within enclosed spaces in a building. Conduit shall run along the bottom of load bearing members.

605.11.3 Access and pathways. Roof access, pathways, and spacing requirements shall be provided in order to ensure access to the roof; provide pathways to specific areas of the roof; provide for smoke ventilation operations; and to provide emergency egress from the roof.

Exceptions:

1. Requirements relating to ridge, hip, and valleys do not apply to roof slopes of two units vertical in twelve units horizontal (2:12) or less.

2. Residential structures shall be designed so that each array is no greater than 150 feet (45,720 mm) by 150 feet (45,720 mm) in either axis.

3. The fire chief may allow panels/modules to be located up to the ridge when an alternative ventilation method acceptable to the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

605.11.3.1 Roof access points. Roof access points shall be defined as an area that does not place ground ladders over openings such as windows or doors, and are located at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires, or signs.

605.11.3.2 Residential systems for one- and two-family residential dwellings. Access shall be provided in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4.

605.11.3.2.1 Access required Residential. Panels /modules shall be located in a manner that provides a minimum of two separate 3 foot (914 mm) wide clear access pathways from the eave to the ridge on each roof. The access pathways shall be located at structurally strong locations on the building capable of supporting the live load of fire fighters accessing the roof.

605.11.3.2.2 Residential buildings with a single ridge. Panels/modules shall be permitted to be located up to the ridge on one roof slope only, with the other slope accessible and suitable for ventilation up to the ridge or alternative method approved by AHJ.

605.11.3.2.3 Residential buildings with multiple ridges, hips or valleys: Panels/modules shall be located no closer than 18 inches (457 mm) to a ridge, hip or a valley if panels/modules are to be placed on both sides of a ridge, hip or valley. If the panels are to be located on only one side of a ridge, hip or valley then the panels shall be permitted to be placed directly adjacent to the ridge, hip or valley.

605.11.3.2.4 Smoke Ventilation. Panels/modules shall be located such that one side of each ridge shall have not less than 4 feet (1,290 mm) of clear space immediately below the ridge available to allow for fire department smoke ventilation operations.

605.11.3.3 All other occupancies. Access shall be provided in accordance with Sections 605.11.3.3.1 through 605.11.3.3.3.

Exception: Where it is determined by the fire code official that the roof configuration is similar to a one- or two-family dwelling, the fire code official may approve the resi-

dential access and ventilation requirements provided in 605.11.3.2.1 through 605.11.3.2.4.

605.11.3.3.1 Access. There shall be a minimum 6 foot (1,829 mm) wide clear perimeter around the edges of the roof.

Exception: If either axis of the building is 250 feet (76,200 mm) or less, there shall be a minimum 4 foot (1,290 mm) wide clear perimeter around the edges of the roof or alternative method approved by AHJ.

605.11.3.3.2 Pathways. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The center line axis pathways shall be provided in both axis of the roof. Center line axis pathways shall run where the roof structure is capable of supporting the live load of firefighters accessing the roof.

3. Shall be straight line not less than 4 feet (1290 mm) clear to skylights and/or ventilation hatches.

4. Shall be straight line not less than 4 feet (1,290 mm) clear to roof standpipes.

5. Shall provide not less than 4 feet (1,290 mm) clear around roof access hatch with at least one not less than 4 feet (1,290 mm) clear pathway to parapet or roof edge.

605.11.3.3.3 Smoke Ventilation. The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45,720 mm) by 150 feet (45,720 mm) in distance in either axis in order to create opportunities for smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1. A pathway 8 feet (2,438 mm) or greater in width;

2.2. A 4 feet (1,290 mm) or greater in width pathway and bordering roof skylights or smoke and heat vents;

2.3. A 4 feet (1,290 mm) or greater in width pathway and bordering 4 foot (1,290 mm) x 8 foot (2,438 mm) “venting cutouts” every 20 feet (6,096 mm) on alternating sides of the pathway.

605.11.4 Ground mounted photovoltaic arrays. Ground mounted photovoltaic arrays shall comply with Sections 605.11 through 605.11.2 and this section. Setback requirements do not apply to ground-mounted, free standing photovoltaic arrays, except as provided in Chapter 22C MMC. A clear brush area of 10 feet (3,048 mm) is required for ground mounted photovoltaic arrays.

(Ord. 2875 § 2, 2011).

9.04.902 International Fire Code Section 902.1, Definitions, 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. 2875 § 2, 2011).

9.04.903 International Fire Code Section 903.2 amended – Sprinkler systems – Where required.

Amend Section 903.2 by adding items:

Existing buildings altered such that the total fire area square footage exceeds the threshold square footage for each occupancy group listed in this section shall be provided with an automatic sprinkler system. Where there is a change-of-occupancy classification in an existing building, the sprinkler requirements for the new occupancy classification shall apply.

An automatic sprinkler system shall be provided throughout buildings where the combined area of all fire areas on all floors, including any mezzanines, exceeds the threshold square footage for each occupancy group listed in this section.

(Ord. 2875 § 2, 2011).

9.04.903.2.1 International Fire Code Section 903.2.1 amended – Sprinkler systems – Group A occupancies.

Section 903.2.1.1 Item 1. Replace 12,000 with 8,000.

Section 903.2.1.3 Item 1. Replace 12,000 with 8,000.

Section 903.2.1.4 Item 1. Replace 12,000 with 8,000. (Ord. 2875 § 2, 2011).

9.04.903.2.3 International Fire Code Section 903.2.3 amended – Sprinkler systems – Group E occupancies.

An automatic sprinkler system shall be provided for Group E Occupancies.

Delete items 1 and 2, and the Exception, and replace them with the following:

> Exceptions:
>
> 1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet; and clusters of portable school classrooms shall be separated as required by the building code.
>
> 2. Group E Occupancies with an occupant load of 50 or less, calculated in accordance with table 1004.1.1.

(Ord. 2875 § 2, 2011).

9.04.903.2.4 International Fire Code Section 903.2.4 amended – Sprinkler systems – Group F-1 occupancies.

Section 903.2 Item 1. Replace 12,000 with 8,000.

Section 903.2 Item 3. Replace 24,000 with 8,000.

Section 903.2.4 Item 4. Where a Group F-2 fire area exceeds 8,000 square feet. (Ord. 2875 § 2, 2011).

9.04.903.2.7 International Fire Code Section 903.2.7 amended – Sprinkler systems – Group M and B occupancies.

Section 903.2.7 Item 1. Add B after M and change 12,000 to 8,000.

Section 903.2.7 Item 2. Add B after M.

Section 903.2.7 Item 3. Add B after M and change 24,000 to 8,000. (Ord. 2875 § 2, 2011).

9.04.903.2.8 International Fire Code Section 903.2.8 amended – Sprinkler systems – Group R occupancies.

Amend Section 903.2.8 to add:

> An automatic sprinkler system shall be installed throughout every apartment house three (3) or more stories in height or containing five (5) or more dwelling units, townhomes and every congregate residence three (3) or more stories in height or having an occupant load of five (5) or more, and every hotel three or more stories in height or containing five (5) or more guest rooms, and one and two family dwelling units three (3) or more stories. Residential or quick-response standard sprinklers shall be used in the dwelling units and guest room portions of the building shall be protected with an automatic sprinkler system per 903.3.1.3.

(Ord. 2875 § 2, 2011).

9.04.903.2.9 International Fire Code Section 903.2.9 and 903.2.10 amended – Sprinkler systems – Group S occupancies.

Section 903.2.9 is hereby enacted and added to the International Fire Code as previously enacted and amended by the city reading as follows:

> Section 903.2.9 Group S Occupancies. An automatic sprinkler system shall be installed throughout all Group S occupancies that have 8,000 square feet or more of fire area.

Section 903.2.9, add Item 5: "In all Group S-1 mini-storage occupancies."

Section 903.2.9.1, add Item 5: "Repair garages where the use of open flame or welding is conducted with a fire area exceeding 3,000 square feet."

Replace all occurrences of "S-1" with "S."

Section 903.2.9 Item 1. Replace 12,000 with 8,000.

Section 903.2.9 Item 3. Replace 24,000 with 8,000.

Section 903.2.9, add Item 5: "In all Group S-1 mini-storage occupancies."

Section 903.2.9.1 Item 1. Replace 10,000 with 8,000.

Section 903.2.9.1 Item 2. Replace 12,000 with 8,000.

Section 903.2.9.1 add Item 5: "Repair garages where the use of open flame or welding is conducted with a fire area exceeding 3,000 square feet."

Section 903.2.9.2 Replace 20,000 with 8,000. (Ord. 2875 § 2, 2011).

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."
70.77.138 Definition of "articles pyrotechnic."
70.77.141 Definition of "agricultural and wildlife 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 of fireworks – Penalties.
70.77.488	Unlawful discharge or use of fireworks – Penalty.
70.77.510	Sales or transfers of display fireworks – Penalty.
70.77.515	Sales or transfers of consumer fireworks – Penalty.
70.77.520	Unlawful to permit fire nuisance where fireworks kept – Penalty.
70.77.535	Articles pyrotechnic, special fireworks for entertainment media.
70.77.545	Violation a separate, continuing offense.
70.77.547	Civil enforcement not precluded.
70.77.580	Posting by retailers of lists of allowed fireworks.

(Ord. 2737 § 1, 2008; 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:

"Permittee" means any person issued a fireworks permit in conformance with this chapter. (Ord. 2737 § 1, 2008; 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. 2737 § 1, 2008; 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 filed with the business licensing specialist or designee.

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 city's fire marshal;

(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 $100.00;

(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. (Ord. 2890 § 1, 2012; Ord. 2737 § 1, 2008; 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. The decision of the city council with respect to an application shall be final. (Ord. 2890 § 2, 2012; Ord. 2737 § 1, 2008; 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. 2737 § 1, 2008; 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 fire-

works stand when it is open to the public. (Ord. 2737 § 1, 2008; 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 ensure 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. 2737 § 1, 2008; 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. 2737 § 1, 2008; Ord. 1235 § 7, 1982).

9.20.130 Penalties for violations.

(1) Any person violating this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment in the jail for a period not exceeding 90 days, or by both such fine and imprisonment. Further, the license shall be revoked.

(2) Any person violating portions of this chapter specifically designated by this chapter or by RCW as gross misdemeanor or misdemeanor, upon conviction shall be guilty and punished for gross misdemeanor by a fine not to exceed $5,000 or by imprisonment in jail for a period not to exceed 365 days or by both such fine and imprisonment; for misdemeanor by a fine not to exceed $1,000 or by imprisonment in jail for a period not to exceed 90 days or by both such fine and imprisonment.

(3) Civil Infraction.

(a) Violations involving possession or discharge of small quantities of fireworks, unless specifically designated in this chapter or RCW as gross misdemeanor or misdemeanor, is a civil infraction, and may be cited as a "civil infraction."

(i) Upon finding that a violation has been committed the person committing the act shall be assessed an amount not to exceed $500.00 plus applicable statutory assessments.

(ii) Such penalty is in addition to any other remedies or penalties specifically provided by law; nothing in this section precludes the charging of a misdemeanor or gross misdemeanor crime as defined under this chapter or RCW.

(iii) Three or more of said "civil infractions" within any consecutive two-year period of time shall be cited as a misdemeanor as set forth in subsection (1) of this section.

(b) "Civil infraction" has the meaning given that term by Chapter 7.80 RCW, the Infraction Rules for Courts of Limited Jurisdiction ("IRLJ") and any local rule adopted by the Marysville municipal court. (Ord. 2737 § 1, 2008; 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:

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10.04.100 Licensing required.
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10.04.490 Violation – Penalties.
10.04.500 Public nuisance – Notice of abatement – Penalties.
10.04.510 Public nuisance – Petition – Notice of abatement.

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 geographic 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;

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(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 or authorized animal shelter by any person who purports to be the owner of the same.

(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. 2833 § 1, 2010; 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).

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).

10.04.315 Chickens.

The keeping of chickens for personal use of the household shall be permitted subject to the following:

(1) A maximum of six female chickens may be kept on residential lots less than one acre in size; provided, that roosters are prohibited on lots that are less than one acre in size.

(2) A suitable shelter that is constructed so as to discourage predators shall be provided. The shelter shall be maintained in good working condition.

(a) Shelters, pens, and similar chicken enclosures shall be in the rear yard and shall be set back a minimum of 20 feet from neighboring residentially occupied structures.

(b) Shelters, pens, and similar chicken enclosures 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.

(c) Chickens may roam freely in the rear yard as long as they are contained on the premises by a fence.

(3) Chickens may be processed on the premises; provided, that the processing occurs in the rear yard out of public view.

(4) Infected chickens with diseases harmful to humans shall be removed from the premises. (Ord. 2900 § 2, 2012).

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).

10.04.335 Beekeeping.

Beekeeping shall be permitted subject to the following:

(1) Beehives are permitted in any zone, subject to the following conditions and limitations:

(a) Hives are prohibited on lots that are 5,000 square feet or less;

(b) Two hives on lots between 5,001 and 10,000 square feet;

(c) Five hives on lots between 10,001 and 35,000 square feet;

(d) Fifteen hives on lots over 35,000 square feet;

(e) The hive limitations outlined in subsections (1)(a) through (d) of this section apply to agricultural uses on lots less than four acres in size. Agricultural uses on lots that are four acres or larger are permitted to have five hives per acre; and

(f) The limits on hives outlined in subsections (a) through (e) of this section may be temporarily increased by 100 percent for a period not to exceed 30 days for the purpose of "splits" (making two hives from an existing hive), or to avoid swarming;

(2) Hives must be set back at least 25 feet from each property line with the following exceptions:

(a) The setback for hives may be reduced to five feet from each property line if:

(i) Hives are situated eight feet or more above the adjacent ground level; or

(ii) Hives are less than six feet above the adjacent ground and are behind a solid fence or hedge which is at least six feet in height and parallel to any property within 25 feet of the hives and extending at least 20 feet beyond the hive in both directions;

(iii) Hives abutting a native growth protection area (NGPA) or open space tract not intended for recreation may be located up to the property line;

(3) Colonies shall be maintained in movable frame hives with a maximum of one colony per hive;

(4) Adequate space shall be provided in each hive to prevent overcrowding and minimize swarming;

(5) Colonies shall be requeened annually, or any time following swarming or aggressive behavior, with a queen of suitable docile strain;

(6) All colonies shall be registered with the Washington State Department of Agriculture in accordance with Chapters 15.60 and 15.62 RCW; and

(7) Abandoned colonies, diseased bees, or bees living in trees, buildings, or any other space except in movable-frame hives shall constitute a public nuisance, and shall be abated as set forth in Chapter 6.24 MMC, Public Nuisances. (Ord. 2984 § 2, 2015).

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 22A.020 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 22A.020 MMC. (Ord. 2404 § 1, 2002; Ord. 2013 § 45, 1995).

10.04.460 Commercial kennels, animal shelters, pet daycares, and pet shops – General conditions.

Commercial kennels, animal shelters, pet daycares, 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, pet daycare, 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) Indoor facilities must comply with the following:

(a) Be heated or cooled to protect the animals from temperatures to which they are not acclimated;

(b) Provide adequate ventilation for the health of the animals and to remove foul odors;

(c) Interior walls, ceilings, and floors must be sealed and resistant to absorption of moisture or odors;

(d) Flooring must be an impervious surface that can be sanitized; and

(e) Suitable drainage must be provided to eliminate excess water.

(4) Outdoor facilities must comply with the following:

(a) Shelter from the elements must be provided;

(b) Suitable drainage must be constructed to prevent an accumulation of water, mud, debris, etc., and to enable proper cleaning of the facilities; and

(c) Walls or fences to contain animals and prevent entry of other animals must be provided.

(5) Water shall be supplied at sufficient pressure and quantity to clean indoor housing facilities and enclosures of debris and excreta.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) There shall be an employee or keeper on duty at all times during hours any store or facility is open whose responsibility shall be the care and supervision of the animals in that shop or department held for care, sale or display.

(11) 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.

(12) No person, persons, association, firm or corporation shall misrepresent an animal to a consumer in any way.

(13) No person, persons, associations, firm or corporation shall knowingly sell a sick or injured animal.

(14) 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.

(15) Noise levels shall comply with the standards set forth in Chapter 173-60 WAC. If noise levels exceed these standards, mitigation measures such as, but not limited to, soundproofing of buildings or outdoor facilities, prohibiting overnight boarding, restricting outdoor access, limiting the number of animals receiving care, separating animals into different groups, etc., shall be implemented in order to achieve compliance with the noise standards set forth in WAC 173-60-040.

(16) Animal facilities (indoor and outdoor) must maintain a 25-foot setback to any neighboring structure used for human habitation located in a nonresidential zone, and a 100-foot setback to any neighboring structure used for human habitation located in a residential zone. (Ord. 2985 § 2, 2015; 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 main-

tenance 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 eligible 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 10.04.040 to 10.04.480 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

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11.06 Skateboarding/In-Line Skating in Comeford Park
11.08 Parking Regulations
11.12 Cruising on State Avenue
11.14 Motorized Scooters
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Chapter 11.04

TRAFFIC CODE

Sections:

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11.04.020 MTO sections not adopted.
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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).

11.04.032 Maximum speed on SR 528.

(1) The maximum speed on SR 528 between mile post 0.49 (Alder Street vicinity) to mile post 0.80 (47th Avenue Northeast) unless otherwise posted, shall be 35 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 SR 528 between mile posts 2.54 (74th Drive Northeast vicinity) and State Route 9 unless otherwise posted, shall be 45 miles per hour. Violation of this section shall constitute a traffic infraction under RCW 46.61.400 and incorporated by the city. (Ord. 2596 § 2, 2005).

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).

11.04.036 State law application – Limitations.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within this city, except as this chapter, as authorized by state law, declares and determines upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it is unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in this chapter when signs are in place giving notice thereof. (Ord. 2705 § 1, 2007).

11.04.037 Speed limit decreases and increases – Authorized.

(1) Whenever the Marysville public works director or his designee determines on the basis of an engineering and traffic investigation that the maximum speed limits permitted by law upon the public streets, roads or alleys of the city are greater or less than is reasonable and safe under the conditions found to exist upon a public street, road or alley, the public works director or his designated subordinate may determine and declare a reasonable and safe maximum speed limit thereon which may:

(a) Decrease the limit at intersections; or

(b) Increase the limit but not to more than 60 miles per hour; or

(c) Decrease the limit but not to less than 20 miles per hour.

(2) Any decreased or increased speed limit as authorized by subsection (1) of this section shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such sign; and differing limits may be established for different times of the day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs. (Ord. 2705 § 1, 2007).

11.04.038 Change of existing speed limits – When effective.

Speed limits in effect on the date of the adoption of the ordinance codified in this section shall remain in effect until the director of public works shall change speed limits under the provisions of this chapter or when the Marysville city council shall, by ordinance, institute speed limit changes and when such changes, in either case, are posted. Any new speed limit will become effective upon posting consistent with the Manual on Uniform Traffic Control Devices (MUTCD) for streets and highways as adopted by WSDOT. No speed limit change is effective until posted. (Ord. 2705 § 1, 2007).

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 vehi-

cle 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 Licens-

ing'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)

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.
11.08.070 Parking for disabled persons – RCW 46.19.050 adopted by reference.
11.08.080 Parking for disabled persons – Private property.
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.
11.08.140 Parking not to obstruct traffic.
11.08.150 Parking in truck loading zone.
11.08.170 Moving and reparking vehicles to avoid time regulation.
11.08.180 Vehicle back to curb.
11.08.190 Parking zones.
11.08.200 Parking recreational vehicles and trucks.
11.08.210 Use of streets and alleys.
11.08.220 Regulations not exclusive.
11.08.230 Enforcement of parking regulations.
11.08.240 Registered owner responsible – Presumption.
11.08.250 Penalties.
11.08.260 Failure to comply with notice of parking violation.
11.08.270 Hearing to contest validity of notices or explain mitigating circumstances.
11.08.280 Municipal court judge administrative hearing examiner.
11.08.290 Rules and regulations.

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 – RCW 46.19.050 adopted by reference.

(1) RCW 46.19.050, Restrictions – Prohibitions – Violations – Penalties, is hereby adopted and incorporated by reference.

(2) 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 46.19.050 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 Chapter 46.19 RCW.

(3) 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 Chapter 46.19 RCW. In addition to assessing the penalty identified in MMC 11.08.250, the police department may remove and impound the offending vehicle.

(4) 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."

(5) 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. 2962 § 1, 2014; 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 46.19.050. (Ord. 2962 § 2, 2014; 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 and reparking vehicles to avoid time regulation.

No person shall move and repark a vehicle on either side of a street within the same block to avoid a parking time limit regulation specified for either side of the street in that particular block. (Ord. 2673, 2006; 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: $250.00 as set forth in RCW 46.19.050;

(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 of 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. 2962 § 3, 2014; 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 22G.010 MMC, Article VIII. (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 30 minutes. 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. 2771 § 1, 2009; 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 land use hearing examiner holds a hearing on the appeal. The tow truck operator shall be given notice of the hearing date. The city land use hearing examiner may affirm, modify or reverse an order of suspension or removal. The decision of the city land use hearing examiner shall be immediately effective and shall be final. (Ord. 2615 § 2, 2006; 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.
11.52.035 CTR goals.
11.52.040 Responsible city department.
11.52.050 Applicability.
11.52.060 New major employers.
11.52.070 Change in status as a major employer.
11.52.080 General requirements for employers.
11.52.090 CTR program description requirements.
11.52.100 Mandatory CTR program elements.
11.52.110 Additional CTR program elements.
11.52.120 Record keeping.
11.52.130 CTR program submittal.
11.52.140 Annual CTR 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.
11.52.200 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 purpose of this chapter is to provide a method for compliance with the Washington State Commute Trip Reduction Law of 1991 (RCW 70.94.521 through 70.94.555), as amended in 2006 by the Commute Trip Reduction Efficiency Act. The Commute Trip Reduction Law was passed to reduce traffic congestion, air pollution, and dependency on fossil fuels through employer-based programs encouraging alternative commute methods to the single-occupancy vehicle. (Ord. 2746 § 1, 2008; 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 major employer worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays, for at least 12 continuous months, which employee is not an independent contractor and is scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

"Affected urban growth area" means:

(1) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the 100 person hours of delay threshold calculated by the Washington State Department of Transportation, and any contiguous urban growth areas; and

(2) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over 70,000 that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas; or

(3) An urban growth area identified by the Washington State Department of Transportation as listed in WAC 468-63-020(2)(b).

"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" means work schedules that allow employees to work their required hours outside of the traditional Monday through Friday, 8:00 a.m. to 5:00 p.m. schedule, including programs such as compressed work weeks that eliminate work trips for affected employees.

"Base year" means the 12-month period that commences when the city of Marysville determines an employer is required to comply with the CTR Law.

"Base year survey" or "baseline measurement" means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The city uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurements must be implemented in a manner that meets the requirements specified by the city.

"Carpool" means a motor vehicle occupied by at least two people traveling together for their commute trip, which results in the reduction of a minimum of one motor vehicle commute trip.

"City" means the city of Marysville.

"Commute trip" means a trip made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

"Commute trip reduction (CTR) plan" means the city's plan and ordinance that regulate and administer the CTR program of a major employer within the city's jurisdiction.

"CTR commuter" means a resident or employee in an affected urban growth area who is participating in the city's commute trip reduction program, including any growth and transportation and efficiency center programs, implemented to meet the city's established targets.

"CTR Law" means the Commute Trip Reduction Law passed by the Washington State Legislature in 1991 (Chapter 202, Laws of 1991), codified in RCW 70.94.521 through 70.94.555, and amended in 1997 and 2006, requiring counties of over 150,000 residents, with one or more major employers, to implement a CTR ordinance and plan. All cities in such counties with one or more major employers are also required to adopt CTR ordinances and plans.

"CTR program" means an employer's strategies to reduce affected employees' SOV use and commute trip vehicle miles traveled per employee (VMT).

"Commute trip vehicle miles traveled per employee (VMT)" means the sum of the individual commute trip lengths in miles over a set period divided by the number of full-time employees.

"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 policy, 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.

"Drive-alone" means a single-occupant vehicle.

"Employee transportation coordinator (ETC)" means a person who is designated as responsible for the development, implementation, and monitoring of an employer's CTR program.

"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.

"Goal" means a purpose toward which efforts are directed.

"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.

"Growth and transportation efficiency center (GTEC)" means a defined, compact mixed-use urban center that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a GTEC must meet minimum criteria established by the CTR Board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

"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.

"Jurisdiction's base year measurement" means the proportion of single-occupant vehicle commute trips by CTR commuters, and commute trip vehicle miles traveled per CTR commuter, on which commute trip reduction targets for the local jurisdiction shall be based. The jurisdiction's base year measurement, for those jurisdictions with an affected urban growth area as of March 1, 2007, shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

"Major employer" (formerly referred to as "affected employer") means a private or public employer, including a state agency, that employs 100 or more full-time employees at a single worksite who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least 12 months.

"Major worksite" means a building or group of buildings that are on physically contiguous parcels of land, or on parcels of land separated solely by private or public roadways or rights-of-way, and at which there are 100 or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least 12 continuous months.

"Mode" means the type of transportation reduction used by employees, such as single-occupant motor vehicle, ride-share vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommuting.

"Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service, unless the third day falls on a weekend or legal holiday, in which case the notice is deemed accepted the day after the weekend or legal holiday.

"Peak period" means the hours from 6:00 a.m. to 9:00 a.m., 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., Monday through Friday, except legal holidays.

"Person hours of delay" means the daily person hours of delay per mile during the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the Washington State Department of Transportation.

"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. If there are other passengers occupying the motor vehicle, but the ages of these passengers are 16 or under, the motor vehicle is still considered a "single-occupant vehicle" for measurement purposes.

"Single-occupant vehicle (SOV) trips" means trips made by affected employees in SOVs.

"Target" means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

"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 demand management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

"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.

"Voluntary employer worksite" means the physical location occupied by an employer that is voluntarily implementing a CTR program.

"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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.030 Marysville commute trip reduction (CTR) plan.

The Marysville CTR plan, as updated in 2008 and set forth in the ordinance codified in this chapter, is adopted wholly and incorporated herein by reference and enacted as the Marysville commute trip reduction plan. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.035 CTR goals.

The goals for reducing Marysville's proportion of drive-alone vehicle trips and commute trip vehicle miles traveled per employee are established in the Marysville CTR plan as set forth in the ordinance codified in this chapter. The city will set the individual worksite goals for major employers based on how the worksite can contribute to the city's overall goal established in the CTR plan. (Ord. 2746 § 1, 2008).

11.52.040 Responsible city department.

The community development director is hereby authorized and directed to enforce all the provisions of this chapter. The community development director may prepare and require the use of such forms and procedures as are essential to the administration of this chapter. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.050 Applicability.

The provisions of this chapter shall apply to all major employers within the corporate limits of the city of Marysville.

(1) In addition to Marysville's established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for major 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) Major employers located in the city shall receive written notification that they are subject to this chapter, within 30 days of passage of the ordinance codified in 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. Such notification shall provide 90 days for the major employer to perform a baseline survey. After the results of the baseline survey are provided to the major employer, it has 90 days to submit a CTR program to the city;

(3) Major 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 90 days of the passage of the ordinance, will be granted an extension to assure the employers have up to 90 days within which to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have 90 days to submit a CTR program to the city;

(4) Major employers that have not been identified or do not identify themselves within 90 days, do not complete a baseline survey within 90 days, or do not submit a CTR program within 180 days of the passage of the ordinance codified in this chapter are in violation of this chapter;

(5) If a major employer has already performed a baseline survey, the major employer is not required to perform another survey and is required to submit a CTR plan to the city within 90 days of the passage of the ordinance codified in this chapter. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.060 New major employers.

(1) Employers that meet the definition of "major employer" in this chapter must identify themselves to the city within 90 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 given 90 days to complete a baseline survey, and an additional 90 days to submit a CTR program, once the baseline survey results are given to the employer. The CTR program will be developed in consultation with the city and implemented no more than 90 days after the program's approval. Employers who do not implement an approved CTR program according to this section are in violation of this chapter.

(2) Employers that do not identify themselves within 90 days of becoming an affected employer are in violation of this chapter.

(3) New major employers shall have four years from the city's acceptance of the CTR program to meet the CTR reduction goal of 10 percent. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.070 Change in status as a major 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 a major 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 a major employer. It is the responsibility of the employer to notify the city that it is no longer a major 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 a major 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 major 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 major employer, and will be subject to the same program requirements as other new major employers. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.080 General requirements for employers.

A major 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 drive-alone commute trips and commute trip vehicle miles traveled per employee. 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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.090 CTR program description requirements.

(1) The CTR program description shall present the strategies to be undertaken by a major employer to achieve the commute trip reduction goals. The goal is currently 10 percent reduction in the base year measurement by the year 2011. 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 CTR program 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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.100 Mandatory CTR program elements.

Each employer's CTR program shall include the following mandatory elements:

(1) Employee Transportation Coordinator (ETC). The employer shall designate an employee transportation coordinator to administer the CTR program. The ETC's and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The ETC shall be trained in CTR program development and administration through a program approved by the city. The ETC shall attend annual ETC training and a minimum of six hours of other training or network meetings annually, or as organized by the city. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. The objective is to have an effective ETC presence at each worksite; a major employer with multiple sites may have one ETC for all sites.

(2) Information Distribution. Information about alternatives to drive-alone commuting shall be provided to employees at least twice a year. Each employer's program description and annual report must report the information to be distributed and the method of distribution.

(3) Annual or Biennial Progress Report. The CTR program must include an annual or biennial review of employee commuting and of progress and good faith efforts toward meeting the SOV and VMT reduction goals. Determination of annual or biennial reporting requirement is dependent on worksite commute trip reduction performance, and the city will advise the major employer of required report frequency. Major employers shall file an annual or biennial progress report with the city in accordance with the format established by this chapter and consistent with the CTR task force guidelines. The report shall describe each of the CTR measures that were in effect for the previous year(s), the results of any commuter surveys undertaken during the year(s), 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 every two years after implementation begins. The employer should contact the city for the format of the report.

(4) Biennial Survey or Measurement. In addition to the specific program baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect commute trip reduction program employee questionnaires (surveys) at least once every two years and shall achieve a 70 percent response rate from employees at the worksite. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.110 Additional CTR program elements.

In addition to the specific program elements described in MMC 11.52.100, the employer's CTR program shall include additional elements as 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;

(15) Promotional activities for ride-sharing and transit, as well as fixed commuter information centers;

(16) Guaranteed rides in emergency situations for ride-share participants;

(17) Reduction of parking provided in accordance with the Marysville Zoning Code;

(18) Charging employees for parking and/or the elimination of free parking; and

(19) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.120 Record keeping.

Major employers shall include a list of the records they will keep as part of the CTR program they submit to the city for approval. Records shall reflect the measures selected by the employer. For example, an employer providing transit and vanpool pass subsidies shall keep monthly records of pass sales; employers with parking charges and reduced rates for carpools and vanpools shall record parking pass sales by type. Employers will maintain all records listed in their CTR program for a minimum of 48 months. The city and the employer shall agree on the record keeping requirements as part of the accepted CTR program. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.130 CTR program submittal.

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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.140 Annual CTR 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. 2746 § 1, 2008; 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 pro-

gram 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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.160 Modification of CTR program elements.

Any major employer may request that the city allow for the modification of CTR program elements, other than the mandatory elements specified in this chapter, including record keeping requirements. Such request may be granted by the city if one of the following conditions exist:

(1) The employer can demonstrate that 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.

The city may require the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.170 Extensions.

(1) An affected employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be made in writing at least 30 days before the due date for which the extension is being requested. Extensions, not to exceed 90 days, shall be considered for reasonable cause shown.

(2) The city shall grant or deny the employer's extension request in writing 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. An employer's annual reporting date may be extended at the discretion of the community development director. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.180 Implementation of employer's CTR program.

Unless extensions are granted, the employer shall implement its approved CTR program not more than 90 days after receiving written notice from the city that the program has been approved or with the expiration of the program review period without receiving notice from the city. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.200 Enforcement.

(1) Compliance. For purposes of this section, "compliance" shall mean fully implementing, in good faith, all provisions in an approved CTR program.

(2) Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of drive-alone 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 its 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 drive-alone or VMT goal, the city shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within 30 days of reaching agreement;

(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 drive-alone 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 receiving written notice to revise its program. The city shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the city will send the employer written notice of that effect 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 and/or other requirements established in this chapter are not met:

(a) Failure to develop and/or submit on time a complete CTR program;

(b) Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive-alone goals as specified in this chapter;

(c) Submission of false or fraudulent data in response to survey requirements;

(d) Failure to make a good faith effort, as defined in RCW 70.94.534(2) or MMC 11.52.020, to achieve the goals outlined in RCW 70.94.527(4), MMC 11.52.080, and this chapter; or

(e) Failure to revise a CTR program as defined in RCW 70.94.534(4) and this chapter. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.210 Penalties.

The following penalties apply:

(1) No major employer with an approved CTR program that has made a good faith effort may be held liable for failure to reach the applicable drive-alone or VMT goal;

(2) Each day of failure to implement the CTR program shall constitute a separate violation, subject to penalties as described in Chapter 4.02 MMC and consistent with Chapter 7.80 RCW;

(3) A major 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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.220 Exemptions and goal modifications.

(1) Worksite Exemptions. A major employer may request the city to grant 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 workforce, or its location(s). An exemption may be granted if and only if the major employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive-alone trips and VMT per employee. Exemptions may be granted by the city at any time based on written notice provided by the major employer. The notice should clearly explain the conditions for which the major employer is seeking an exemption from the requirements of the CTR program. 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 Board Guidelines to assess the validity of employee exemption requests. The city shall review annually all employee exemption requests, and shall determine whether the exemption be in effect during the following program year.

(3) Modifications of CTR Program Goals.

(a) A major 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 Board 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 or annual report. (Ord. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

11.52.230 Appeals.

(1) Appeals. Any major employer may appeal administrative decisions regarding exemptions, modification of goals or elements, or modification of the major employer's plans using the procedures set forth in Chapter 22G.010 MMC, Article VIII, 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. 2746 § 1, 2008; 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. 2746 § 1, 2008; Ord. 2152 § 1, 1997).

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 4th Street (SR 528) to 80th Street N.E.;

Smokey Point Blvd./State Avenue from Grove Street to the northern city limits;

State Avenue from southern city limits to 4th Street (SR 528);

47th Avenue N.E. from 2nd Street to Armar Road;

Armar Road from 47th Avenue N.E. to 51st Avenue N.E.;

51st Avenue N.E. from Armar Road to northern city limits;

53rd Drive N.E. from 3rd Street to 4th Street;

67th Avenue N.E. from 64th Street N.E. (SR 528) to the northern city limits.

(2) East-West Traffic.

3rd Street from 47th Avenue N.E. to 53rd Drive N.E.;

4th Street/64th Avenue N.E. (SR 528) from I-5 interchange to the eastern city limits; provided, that there shall be no turns permitted to/from State Avenue north of 4th Street;

80th Street N.E. from Cedar Avenue to State Avenue;

88th Street N.E., from I-5 interchange to State Avenue;

116th Street N.E., from I-5 interchange to State Avenue;

136th Street N.E., from west city limits to Smokey Point Blvd./State Avenue;

152nd Street N.E. from Smokey Point Boulevard to east city limits. (Ord. 2930 § 1, 2013; 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:

12.02A Street Department Code
12.04 Street Names
12.06 Marysville Transportation Benefit District
12.08 Excavations and Obstructions
12.12 Sidewalks – Maintenance by Abutting Owners
12.20 Bicycles and Other Nonmotorized, Wheeled Personal Transportation 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 12.02A

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.

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 and protected from impacts that may jeopardize their function 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, bioretention facility, pervious pavement, etc., disturbed by excavation or other construction activities 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. 2694 § 1, 2007; 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;

(e) Construction of new streets within dedicated, unopened right-of-way.

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 Chapter 22G.090 MMC;

(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 multi-family dwelling unit, business, commercial or industrial building: frontage improvements shall be completed prior to occupancy of the building;

(d) Construction of a single-family or duplex dwelling unit: frontage improvements shall be completed prior to occupancy of the structure, provided the following exceptions apply:

(i) An existing lot in a existing single-family subdivision, short plat, or binding site plan where the lots are fully developed and frontage improvements were constructed to the standard in effect at the time of final plat recording; or

(ii) An existing lot (greater than one acre) where there are no frontage improvements meeting city standards constructed within 200 feet of the lot or identified through approved plats, and development potential exists for future development. At the discretion of the director, frontage improvements may be reduced or deferred until the entire parcel is developed.

(iii) Replacement of an existing single-family or duplex unit where there are no frontage improvements constructed within 200 feet of the lot. Frontage improvements may be waived, providing construction of the new dwelling unit is completed within 12 months of the demolition of the existing unit.

(e) The granting of an exception to construct frontage improvements as outlined in subsection

(3)(d) of this section does not waive the property owner's requirement to dedicate right-of-way as established in MMC 12.02A.110;

(f) Construction of any additions, alterations or repairs to a residential building that result in an increase in the number of dwelling units as defined in Chapter 22A.020 MMC, or to a business, commercial or industrial building that result in an increase in pedestrian or vehicular traffic, within any 12-month period: frontage improvements shall be completed prior to occupancy;

(g) Development of a mobile home park or other project requiring a binding site plan: frontage improvements shall be completed prior to occupancy;

(h) Any change in the occupancy classification of an existing building or structure on the property that results in an increase in pedestrian and/or vehicular traffic within any 12-month period. Frontage improvements shall be completed prior to occupancy.

(4) 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 12.02A.120(4). (Ord. 2920 § 1, 2013; Ord. 2724 § 1, 2007; Ord. 2694 § 1, 2007; 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 and associated storm water drainage facilities unless specifically designated for maintenance by the city.

(4) Any private roads established under this section shall contain a utilities easement approved by the city. (Ord. 2694 § 1, 2007; 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 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, when the city finds that the proposed development will adversely affect pedestrian or vehicular traffic and finds that such dedication is necessary to protect against, and is roughly proportional to, such adverse effects.

(2) The dimensions of required yards and the dimensions of setbacks for buildings and other structures, as specified in MMC Title 22C, 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. 2724 § 1, 2007; 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 22G.010 MMC, Article VIII. (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.
12.04.013 88th Street N.E.
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).

12.04.013 88th Street N.E.

All sections, now or hereafter existing, of 88th Street N.E. from the intersection with 74th Drive N.E. to the intersection with 84th Street N.E. and 83rd Avenue N.E. shall hereafter be known and designated as Ingraham Boulevard. (Ord. 2672, 2006).

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

MARYSVILLE TRANSPORTATION BENEFIT DISTRICT

Sections:

12.06.010 Establishing transportation benefit district.
12.06.020 Governing board.
12.06.030 Functions of the district.
12.06.040 Transportation improvements funded.
12.06.050 Dissolution of district.

12.06.010 Establishing transportation benefit district.

There is created a transportation benefit district to be known as the "Marysville transportation benefit district" or "district," with geographical boundaries comprised of the corporate limits of the city as they currently exist or as they may exist following future annexations. (Ord. 2938 § 2, 2014).

12.06.020 Governing board.

(1) The governing board ("board") of the transportation benefit district shall be the Marysville city council acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW. The board shall be known as the "Marysville transportation benefit district board."

(2) The treasurer of the transportation benefit district shall be the city finance director.

(3) The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1). At a minimum, if a transportation improvement exceeds its original cost by more than 20 percent, as identified in the district's original plan, a public hearing shall be held to solicit public comment regarding how the cost change should be resolved.

(4) The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2). (Ord. 2938 § 2, 2014).

12.06.030 Functions of the district.

(1) The district board may authorize a vehicle tax fee of up to $20.00 per vehicle as provided for by RCW 82.80.140. Any expansion of the authorized purposes of the district shall be undertaken only after notice, hearing and adoption of an ordinance in accordance with RCW 36.73.050(2)(b) or a vote of the people pursuant to RCW 36.73.065(3).

(2) When authorized by the voters pursuant to the requirements of Chapter 36.73 RCW, other taxes, fees, charges and tolls or increases in these revenue services may be assessed for the preservation, maintenance and operations of city streets. Additional transportation improvements may be added to the functions of the district upon compliance with the requirements of said chapter.

(3) The board shall have and exercise all powers and functions provided by Chapter 36.73 RCW to fulfill the functions of the district. (Ord. 2938 § 2, 2014).

12.06.040 Transportation improvements funded.

The funds generated by the transportation benefit district shall be used for transportation improvements that preserve, maintain and operate the existing transportation infrastructure of the city, consistent with the requirements of Chapter 36.73 RCW, and may include but shall not be limited to "transportation improvements" as defined in RCW 36.73.015(4). The funds may be utilized for any lawful purpose under the chapter; but all funds raised through the TBD shall be expended only for such preservation, construction, maintenance and operation in accordance with the provisions of Chapter 36.73 RCW as the same exists or is hereafter amended. The funds expended by the district shall preserve, maintain and operate the city's previous investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost-effectiveness of the city's infrastructure investments, and continue the optimal performance of the transportation system. Additional transportation improvement projects may be funded only after compliance with the provisions of RCW 36.73.050(2)(b) following notice, public hearing and enactment of an authorizing ordinance. (Ord. 2938 § 2, 2014).

12.06.050 Dissolution of district.

The transportation benefit district shall be automatically dissolved when all indebtedness of the district has been retired and when all of the district's anticipated responsibilities have been satisfied. Street preservation, maintenance and operation are ongoing, long-term obligations of the city. Pursuant to RCW 36.73.050 and 36.73.170, the district shall automatically dissolve when all indebtedness of the district has been retired and anticipated responsibilities have been satisfied, but in no event without further action of the Marysville

city council shall the district extend more than 20 years from the effective date of this chapter. (Ord. 2938 § 2, 2014).

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

BICYCLES AND OTHER NONMOTORIZED, WHEELED PERSONAL TRANSPORTATION ON SIDEWALKS

Sections:

12.20.010 Bicycles and other wheeled personal transportation on sidewalks – Penalty.

12.20.010 Bicycles and other wheeled personal transportation on sidewalks – Penalty.

Any person who shall ride a bicycle, skateboard, roller skates or foot scooter, or other method of nonmotorized personal transportation, on any sidewalk within the city limits at a speed greater than 10 miles per hour, or in a negligent or reckless manner regardless of speed that could reasonably cause harm to the rider, other pedestrians, or property, shall be a guilty of a civil infraction with a penalty in the amount of $50.00 plus any costs or assessments.

(1) For the purpose of this section, "to operate in a negligent or reckless manner" means the operation in such a manner as to endanger or be likely to endanger any persons or property and may be under crowded or dangerous (such as inclement weather, snow and ice) sidewalk conditions even if traveling at less than 10 miles per hour.

(2) This section does not apply to implements known as walkers, wheelchairs, or scooters used for human transportation for persons with disabilities or injuries or children's strollers. (Ord. 2953 § 1, 2014; Ord. 80 § 20, 1900. Formerly 12.20.020).

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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 – Penalty.

12.36.010 Obstructing right-of-way visibility – Public nuisance – Penalty.

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. Any person or corporation who violates this section shall be deemed to have maintained a public nuisance pursuant to Chapter 6.24 MMC; and any person or corporation violating any of the provisions of this chapter shall be punished as set forth in MMC 4.02.040. (Ord. 2951 § 10, 2014; Ord. 999 § 1, 1978).

Chapter 12.40

CLEAN CONDITION OF PUBLIC RIGHT-OF-WAY

Sections:

12.40.010 Duty to maintain clean right-of-way – Penalty.

12.40.010 Duty to maintain clean right-of-way – Penalty.

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. Any person or corporation who violates this section shall be deemed to have maintained a public nuisance pursuant to Chapter 6.24 MMC; and any person or corporation violating any of the provisions of this chapter shall be punished as set forth in MMC 4.02.040. (Ord. 2951 § 11, 2014; 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 Controlling Stormwater Runoff from New Development, Redevelopment, and Construction Sites
14.16 Operation and Maintenance of Public Storm Drainage Systems
14.17 Operation and Maintenance of Private Storm Drainage Systems
14.18 Regional Stormwater Drainage
14.19 Surface Water Utility
14.20 Wastewater Pretreatment
14.21 Illicit Discharge Detection and Elimination (IDDE)
14.32 Utility Service Planning Area

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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 Sewer connection required.
14.01.055 Water connection required.
14.01.060 Rights inspection and access.
14.01.070 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 con-

1. Utility Service Area.

nected to a public sewer service supplied by another 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 Sewer connection required.

(1) The owner of any property within the city limits which is not connected to city sewer service shall be required to extend the sewer 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 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; or

(e) As a condition of approval for any new land division, including but not limited to subdivision, short subdivision, and binding site plan. In the case of new land divisions, the 200-foot threshold shall apply. Beyond the 200-foot threshold, the owner shall be required to extend the sewer utility line to all occupied structures regardless of distance unless one of the following exceptions applies:

(i) The proposed subdivision is within an unsewered urban enclave which is defined as an area within an urban growth area in which, in the opinion of the director, connection to public sewer is not economically or technically feasible due to manmade or natural barriers although public sewer may have been extended near such area, and for which the city has certified that it cannot reasonably provide sewer service because of such barriers.

(ii) The land division application proposes creation of no more than two lots and in addition meets each of the following conditions:

(A) The design for the land division includes specific provisions for future accommodation of public sewers in a manner which will allow for future development at appropriate urban densities. The director may require dry sewers and side sewer stub outs;

(B) The land division is configured in a manner which, in the opinion of the director, provides reasonable assurance that subsequent redevelopment will be at minimum or greater than minimum urban densities as outlined in the city's comprehensive plan when sewer becomes available;

(C) One of the proposed new lots is no larger than the minimum lot size necessary to accommodate an on-site sewage treatment system with the reserve area required by the Snohomish Health District; and

(D) The director includes as a condition of approval a prohibition of further subdivision or short subdivision of the property until public sewer becomes available.

(2) Approval of any land division application utilizing the exception in subsection (1) of this section is contingent upon submittal of a legally binding agreement with the city, which must be recorded with the property records of Snohomish County and in a form acceptable to the director, in which the property owner and successors in interest agree to participate without protest in any sewer local improvement district (LID) or utility local improvement district (ULID), including agreement to pay any connection fees and monthly charges assessed by the city, LID or ULID. Nothing in this section shall be construed to limit the ability of the applicant or any successor in interest to challenge the amount of any assessment.

(3) The owner of any property outside of the city limits, but within the utility service area, which is connected to public water service as required in MMC 14.01.040(1) 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 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; or

(e) As a condition of approval for any new land division, including but not limited to subdivision, short subdivision, and binding site plan. In the case of new land divisions, the 200-foot threshold shall apply. Beyond the 200-foot threshold, the owner shall be required to extend the sewer utility line to all occupied structures regardless of distance unless one of the following exceptions applies:

(i) The proposed subdivision is within an unsewered urban enclave which is defined as an area within an urban growth area in which, in the opinion of the director, connection to public sewer is not economically or technically feasible due to manmade or natural barriers although public sewer may have been extended near such area, and for which the city has certified that it cannot reasonably provide sewer service because of such barriers.

(ii) The land division application proposes creation of no more than two lots and in addition meets each of the following conditions:

(A) The design for the land division includes specific provisions for future accommodation of public sewers in a manner which will allow for future development at appropriate urban densities. The director may require dry sewers and side sewer stub outs;

(B) The land division is configured in a manner which, in the opinion of the director, provides reasonable assurance that subsequent redevelopment will be at minimum or greater than minimum urban densities as outlined in the city's comprehensive plan when sewer becomes available;

(C) One of the proposed new lots is no larger than the minimum lot size necessary to accommodate an on-site sewage treatment system with the reserve area required by the Snohomish Health District; and

(D) The director includes as a condition of approval a prohibition of further subdivision or short subdivision of the property until public sewer becomes available.

(4) Approval of any building permit or land division application utilizing the exception in subsection (3) of this section is contingent upon submittal of a legally binding agreement with the city, which must be recorded with the property records of Snohomish County and in a form acceptable to the director, in which the property owner and successors in interest agree to participate without protest in any sewer local improvement district (LID) or utility local improvement district (ULID), including agreement to pay any connection fees and monthly charges assessed by the city, LID or ULID. Nothing in this section shall be construed to limit the ability of the applicant or any successor in interest to challenge the amount of any assessment.

(5) Approval of any building permit or land division approval utilizing the exception in subsection (3) of this section is contingent upon submittal of a legally binding annexation agreement as established in MMC 14.32.040(2). The annexation agreement must be recorded with the property records of the Snohomish County and in a form acceptable to the director, in which the property owner and all successors in interest agree to annexation of the property to the city when proposed.

(6) The city land use hearing examiner shall have the authority to grant variances from subsections (1) and (3) of this section. Applications for such variances shall be filed, in writing with the director, 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 of 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 city limits;

(e) That the granting of such variances will not conflict with the city's annexation policies as adopted by resolution. (Ord. 2774 § 1, 2009; Ord. 2375 § 2, 2001; Ord. 1547, 1987; Ord. 1434, 1985).

14.01.055 Water connection required.

(1) The owner of any property within the city limits which is not connected to city water service shall be required to extend the water service, and to connect to the same for all occupied structures on the property under any of the following circumstances:

(a) Upon construction of a 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; or

(e) As a condition of approval for any new land division, including but not limited to subdivision, short subdivision, and binding site plan.

(2) The extension of water service is required as outlined in subsections (1)(a) through (e) of this section unless one of the following exceptions applies:

(a) An alteration, expansion, or replacement of an existing structure which does not require the installation of additional plumbing fixtures;

(b) The structure, consistent with the requirements of the International Building Code (IBC) as adopted by the city, lawfully incorporates no plumbing fixtures;

(c) The structure is located in an area in which public water connection will not be available within the next six years, according to the city's adopted capital facilities plan.

(3) Approval of any building permit or land division application utilizing one of the exceptions in subsection (1) of this section is contingent upon submittal of a legally binding agreement with the city, which must be recorded with the property records of Snohomish County and in a form acceptable to the director, in which the property owner and successors in interest agree to participate without protest in any water local improvement district (LID) or utility local improvement district (ULID), including agreement to pay any connection fees and monthly charges assessed by the city, LID or ULID. Nothing in this section shall be construed to limit the ability of the applicant or any successor in interest to challenge the amount of any assessment.

(4) The owner of any property outside of the city limits, but within the utility service area, which is not connected to public water service shall be required to extend the public water service and connect to the same for all occupied structures on the property, under any of the following circumstances:

(a) Upon construction of a 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; or

(e) As a condition of approval for any new land division, including but not limited to subdivision, short subdivision, and binding site plan, unless one of the following exceptions applies:

(i) An alteration, expansion, or replacement of an existing structure which does not require the installation of additional plumbing fixtures;

(ii) The structure, consistent with the requirements of the International Building Code (IBC) as adopted by the city, lawfully incorporates no plumbing fixtures;

(iii) The structure is located in an area in which public water connection will not be available within the next six years, according to the city's adopted capital facilities plan.

(5) Approval of any building permit or land division application utilizing one of the exceptions in subsection (3) of this section is contingent upon submittal of a legally binding agreement with the

city, which must be recorded with the property records of Snohomish County and in a form acceptable to the director, in which the property owner and successors in interest agree to participate without protest in any water local improvement district (LID) or utility local improvement district (ULID), including agreement to pay any connection fees and monthly charges assessed by the city, LID or ULID. Nothing in this section shall be construed to limit the ability of the applicant or any successor in interest to challenge the amount of any assessment.

(6) Approval of any building permit or land division approval utilizing the exceptions in subsection (3) of this section is contingent upon submittal of a legally binding annexation agreement as established in MMC 14.32.040(2). The annexation agreement must be recorded with the property records of Snohomish County and in a form acceptable to the director, in which the property owner and all successors in interest agree to annexation of the property to the city when proposed.

The city land use hearing examiner shall have the authority to grant variances from subsections (1) and (4) of this section. Applications for such variances shall be filed, in writing with the director, 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 of 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 city limits;

(e) That the granting of such variances will not conflict with the city's annexation policies as adopted by resolution. (Ord. 2774 § 2, 2009).

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).

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14.01.070 Penalties.

It shall constitute a violation of this chapter 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, 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.

Violations of subsections (1) through (6) of this section and violations of this chapter shall be punished as set forth in MMC 4.02.040(3)(g). Each day that a violation continues shall constitute a separate offense. The penalties provided in this section shall be construed as being cumulative with civil damages provided in MMC 14.01.080. (Ord. 2951 § 12, 2014; 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, 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.
14.03.250 Frontage requirements – Water and sewer.
14.03.300 Connections required – Storm drainage system.
14.03.310 Extensions for full lot frontage – Storm drainage system.
14.03.320 Application for connection, application fee and issuance of permit – Storm drainage system.
14.03.330 Inspection fees – Storm drainage system.
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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 2557 § 1, 2004; Ord. 2375 § 3, 2001; Ord. 1810, 1990).

14.03.200 Private sewer lines.

Private sewer lines shall be constructed and maintained in accordance with the engineering design and development standards. 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. 2816 § 1 (Exh. A), 2010; Ord. 1434, 1985).

14.03.250 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. 2816 § 1 (Exh. A), 2010; Ord. 2375 § 4, 2001; Ord. 1646, 1988; Ord. 1434, 1985. Formerly 14.03.300).

14.03.300 Connections required – Storm drainage system.

(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 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; or

(c) If the public works director or designee finds that proposed on-site stormwater BMPs are adequate under the requirements of this title.

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 stormwater 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. 2816 § 1, 2010).

14.03.310 Extensions for full lot frontage – Storm drainage system.

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. 2816 § 1, 2010).

14.03.320 Application for connection, application fee and issuance of permit – Storm drainage system.

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. For applicable fees see Chapter 14.07 MMC. 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. 2816 § 1, 2010).

14.03.330 Inspection fees – Storm drainage system.

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 and accepted by the city, the party constructing the same shall pay the city an inspection fee per Chapter 14.07 MMC. 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 has been constructed in accordance with city specifications. (Ord. 2816 § 1, 2010).

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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 1434, 1985).

14.03.420 Conveyance to city.

All extensions to the public utility system shall, at the city's sole discretion, be subject to conveyance to the city by bill of sale, and such conveyances shall be accompanied by a warranty of the grantor that the utility lines, facilities 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 two years 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 or facilities are on or cross private property, the grantor shall convey to the city the required easements for constructing, repairing, maintaining, altering, changing, controlling and operating the lines or facilities in perpetuity. (Ord. 2816 § 1 (Exh. A), 2010; 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 two years after acceptance by the city.

(3) Prior to commencing work, proof of insurance shall be submitted for commercial general liability insurance with limits not less than $1,000,000 per occurrence, $2,000,000 general aggregate, $2,000,000 products-completed operations aggregate limit; and auto liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident. The city of Marysville shall be named as an additional insured party under the commercial general liability insurance policy.

(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. 2816 § 1 (Exh. A), 2010; 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 22G.030.020. 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 22G.010 MMC, Article VIII, and Chapter 22G.060 MMC within a 20-day period after the written decision of the city engineer. (Ord. 2857 § 1, 2011; Ord. 2816 § 1 (Exh. A), 2010; 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.
14.05.030 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. 2816 § 1 (Exh. A), 2010; Ord. 1434, 1985).

14.05.030 Utility bills – Delinquent accounts – Liens.

(1) Combined billing statements for the garbage, surface water, water and sewer utilities shall be sent to all customers on a regular and periodic basis to be determined by the finance director. 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.

(2) All payments on utility bills shall be applied first to the garbage account, second to the surface water account, third to the sewer account, and fourth to the water account. In the event that any fees or charges assessed for such services are not paid within the date set forth on the billing 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.

(3) Where a parcel is not served by city water, and there is no water account, the city shall have separate sewerage and garbage liens as allowed by law. The sewerage lien, which may include any charge for storm or surface water, shall be for delinquent and unpaid rates, penalties, and interest. Said sewerage lien shall be superior to all other liens except the lien for general taxes and local and special assessments. In accordance with the provisions of RCW 35.67.215, said sewerage lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor. Unpaid charges for sewerage shall bear interest at eight percent per annum computed on a monthly basis. Said sewerage lien shall be foreclosed in accordance with the provisions of Chapter 35.67 RCW. Any lien for garbage shall be foreclosed in accordance with the provisions of Chapter 35.21 RCW. (Ord. 2924 § 1, 2013; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2654 § 1, 2006; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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 researching and calculating property lien information and information regarding lien closing payoff totals for 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 use the city of Marysville website. 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 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. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2612 § 1, 2005; Ord. 2598 § 1, 2005).

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Chapter 14.07

FEES, CHARGES AND REIMBURSEMENTS

Sections:

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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 MMC 22G.030.020
Street closure notice	$60.00
Install/repair street sign	Materials and expenses
Street code variance	See MMC 22G.030.020
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)
Construction water	$3.50/1,000 gallons used
Hydrant water	$50.00 setup + $3.50/1,000 gallons used
Sanitary sewer extension inspection charge	See MMC 22G.030.020
Sanitary sewer inspection fee (right-of-way to residence)	$100.00 per connection
Segregations (local improvement district fees)	$100.00, plus actual engineering costs incurred by the city
Disconnection charges:	
Voluntary disconnection of service	$5.00
Involuntary disconnection of service	$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	$5.00
Involuntary reconnection	$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 MMC 22G.030.020 ($250.00)
Water system extension inspection fee	See MMC 22G.030.020
Miscellaneous utility relocation (hydrants, meters, blow-offs)	Time and materials
Water use violation:	
Commercial	$200.00
Residential	$50.00
Water and/or sanitary sewer plan review	See MMC 22G.030.020
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	$500.00 minimum or one percent of project + $100.00 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	$40.00
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. 2918 § 1, 2013; Ord. 2857 § 2, 2011; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2780 § 4, 2009; Ord. 2756 § 1, 2008; Ord. 2554 § 1, 2004; Ord. 2346 § 1, 2000; Ord. 2267 § 1, 1999; Ord. 2106 § 2, 1996).

14.07.010 Capital improvement charges.

(1) Capital improvement charges shall be assessed on all new connections to the water, sewer

and storm water systems. 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 and storm water trunk lines and 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 prior to building permit issuance for residential construction and prior to issuance of a certificate of final occupancy for commercial/industrial construction.

(2) Deferral of Connection Charges Allowed.

(a) Payment of required connection charges may be deferred to final inspection for single-family residential dwelling or multifamily projects with 25 or fewer units.

(b) Payment of required connection charges for a commercial building, industrial building, or a multifamily development exceeding 25 units may be deferred from the time of building permit issuance in accordance with the following:

(i) Fifty percent of the connection charges shall be paid prior to approved occupancy of the structure; and

(ii) The remaining 50 percent of the connection charges shall be paid within 18 months from the date of building occupancy, or when ownership of the property is transferred, whichever is earlier.

(c) The public works department shall allow an applicant to defer payment of the connection charges when, prior to submission of building permit application for subsection (2)(b) of this section or prior to final inspection for subsection (2)(a) of this section, the applicant:

(i) Submits a signed and notarized deferred connection charge application together with a $200.00 processing fee and acknowledgement form for the development for which the property owner wishes to defer payment of the charges; and

(ii) With regard to payment deferment under subsection (2)(b) of this section, records a lien for connection charges against the property in favor of the city in the total amount of all deferred connection charges for the development. The lien for connection charges shall:

(A) Be in a form approved by the city attorney; and

(B) Include the legal description, tax account number and address of the property.

(d) Upon receipt of final payment of all deferred charges for the development the director of the public works department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their expense, will be responsible for recording each lien release.

(e) In the event that the connection charges are not paid in accordance with subsection (2)(b) of this section, the city shall institute foreclosure proceedings in accordance with state law and as provided herein. In addition to any unpaid collection charges, the city shall be entitled to interest on the unpaid impact fees at the rate provided for in RCW 19.52.020 or as otherwise allowed by law and the reasonable attorney fees and costs incurred by the city in the foreclosure process. Notwithstanding the foregoing, prior to commencement of foreclosure, the city shall give not less than 30 days' written notice to the person or entity whose name appears on the assessment rolls of the county assessor as owner of the property via certified mail with return receipt requested and regular mail advising of its intent to commence foreclosure proceedings. If the connection charges are paid in full to the city within the 30-day notice period, no attorney fees, costs and interest will be owed.

(f) In the event that the deferred connection charges are not paid in accordance with this section, and in addition to foreclosure proceedings provided in subsection (2)(e) of this section, the city may initiate any other action(s) legally available to collect such connection charges.

(g) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the connection charges.

(h) The deferred payment options set forth in this section shall automatically terminate three years from the effective date of the ordinance codified in this section without further action of the city council.

(3) The following capital improvement charges are established:

Residential Units
Connection Charges

Type of Connection		City Water	Outside Water	City Sewer	Outside Sewer	Storm Water
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	
	1/1/2011					$95.00
Multifamily Residential**						
Effective Date	8/1/2012 through 8/1/2015	$3,000	$5,490	$3,000	$4,890	

*Residential living units include multi-unit housing and mobile homes for the purpose of water and sewer charges. For the purpose of the storm connection charge, only single-family units will be charged a flat fee; all other land uses will be charged based on the equivalent residential unit (ERU), as described below.

**The connection charges for multifamily residential development shall be in effect for a three-year period from August 1, 2012, through August 1, 2015. Thereafter, the connection charges for multifamily residential development shall be the same as the connection charges for residential development.

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.

Storm Water

Effective Date	1/1/2011
1 ERU*	$95.00

*An equivalent residential unit (ERU) equals 3,200 square feet of impervious surface area. Nonresidential projects will be charged $95.00 per ERU. See Chapter 14.19 MMC for definitions.

Water Service Installation Fee

Effective Date	11/1/2006
5/8" x 3/4"	$1,050
3/4" x 3/4"	$1,075
1"	$1,200
1-1/2"	$1,600
2"	Time and materials costs/ minimum of $1,900

Drop-in Meter Fee

Effective Date	11/1/2006
5/8" x 3/4"	$500.00
3/4" x 3/4"	$525.00
1"	$560.00
1-1/2"	$750.00
2"	$850.00
3" and over	Charge time and material/ $3,500 minimum

Hotel/Motel Connection Charges

		City Water	Outside Water	City Sewer	Outside Sewer
Effective Date	1/1/2005	$1,405	$1,646	$1,193	$1,336
	1/1/2006	$1,816	$2,099	$1,717	$1,870

(4) "Floor space" is defined as the net square footage measured from the interior walls, including interior partitions.

(5) 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.

(6) 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.

(7) 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 (3) 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.

(8) 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 (3) 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 (3) of this section for residential living units.

(9) 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. 2918 § 2, 2013; Ord. 2905 § 1, 2012; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2775 § 1, 2009; Ord. 2670 § 1, 2006; Ord. 2607 § 1, 2005; 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 referenced 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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(3). (Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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) Bimonthly Minimum Water Rates. Minimum charges for each billing period, and consumption allowances for such minimums are established as follows:

Effective January 1, 2015:

Meter Size Effective 1/1/15 Bi-Monthly Rates	AWWA Meter Factor	City Rate	Rural Rate	Outside UGA Rate
Tier = factor * base rate				
Multiple Residential Units (Per Unit)	N/A	$21.79	$32.69	$43.57
5/8"	1	$21.79	$32.69	$43.57
3/4"	1.5	$32.69	$49.01	$65.35
1"	2.5	$54.48	$81.69	$108.92
1-1/2"	5	$108.92	$163.38	$217.84
2"	8	$174.27	$261.41	$348.53
3"	16	$348.53	$522.80	$697.08
4"	25	$544.60	$816.90	$1,089.18
6"	50	$1,089.18	$1,633.76	$2,178.35
8"	80	$1,742.68	$2,614.03	$3,485.37
10"	115	$2,505.11	$3,757.66	$5,010.21
12"	200	$4,356.71	$6,535.05	$8,713.41

Residential & Multifamily Effective 1/1/15 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Volume Tiers (1,000 gal)			
0 to 6	$1.18	$1.76	$2.34
7 to 20	$4.10	$6.16	$8.21
21 to 30	$4.68	$7.02	$9.38
31 and higher	$5.27	$7.91	$10.55

Commercial Effective 1/1/15 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Volume Tiers (1,000 gal)			
0 to 6	$1.18	$1.76	$2.34
7 and higher	$2.93	$4.40	$5.86

Effective January 1, 2016:

Meter Size Effective 1/1/16 Bi-Monthly Rates	AWWA Meter Factor	City Rate	Rural Rate	Outside UGA Rate
Tier = factor * base rate				
Multiple Residential Units (Per Unit)	N/A	$22.22	$33.34	$44.44
5/8"	1	$22.22	$33.34	$44.44
3/4"	1.5	$33.34	$49.99	$66.65
1"	2.5	$55.56	$83.33	$111.10
1-1/2"	5	$111.10	$166.65	$222.20
2"	8	$177.75	$266.64	$355.50
3"	16	$355.50	$533.26	$711.02
4"	25	$555.49	$833.24	$1,110.97
6"	50	$1,110.97	$1,666.44	$2,221.91
8"	80	$1,777.53	$2,666.31	$3,555.08
10"	115	$2,555.21	$3,832.82	$5,110.42
12"	200	$4,443.84	$6,665.76	$8,887.68

Residential & Multifamily Effective 1/1/16 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Volume Tiers (1,000 gal)			
0 to 6	$1.20	$1.79	$2.39
7 to 20	$4.18	$6.28	$8.37
21 to 30	$4.78	$7.16	$9.57
31 and higher	$5.38	$8.07	$10.76

Commercial Effective 1/1/16 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Volume Tiers (1,000 gal)			
0 to 6	$1.20	$1.79	$2.39
7 and higher	$2.99	$4.49	$5.97

(3) 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.

(4) 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.

(5) Private Fire Protection Rates. Private fire protection rates for properties inside or outside of the corporate limits of the city shall be as follows:

Effective January 1, 2015:

(a) Private hydrants, each: $42.04 per year;
(b) Wet standpipe systems: $42.04 per year;
(c) Dry standpipe systems: None;
(d) Automatic sprinkler systems:
(i) 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	$45.73
3-inch	$56.28
4-inch	$69.15
6-inch	$86.73
8-inch	$113.73
10-inch	$143.01
12-inch	$165.19

Effective January 1, 2016:

(a) Private hydrants, each: $42.88 per year;
(b) Wet standpipe systems: $42.88 per year;

(c) Dry standpipe systems: None;

(d) Automatic sprinkler systems:

(i) 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	$46.64
3-inch	$57.41
4-inch	$70.53
6-inch	$88.46
8-inch	$116.00
10-inch	$145.87
12-inch	$168.49

(ii) As of January 1, 2010, automatic sprinkler systems without a separate meter and where the line is under two inches, will become part of the minimum water rate as a result of the rate restructuring.

(6) 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.

(7) 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.

(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. 2975 § 1, 2014; Ord. 2948 § 1, 2013; Ord. 2916 § 1, 2012; Ord. 2881 § 3 (App. A), 2011; Ord. 2836 § 1, 2010; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2815 § 1, 2010; Ord. 2758 § 1, 2008; Ord. 2727 § 1, 2007; Ord. 2680 §§ 1, 3, 4, 2006; Ord. 2620 §§ 1, 3, 4, 2006; 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 to 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. Bimonthly sewer rates are established as follows:

Effective January 1, 2015:

Classification Effective 1/1/15 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Single-family residential	$81.20	$121.82	$162.43
Multiple residential units per unit	$77.23	$115.83	$154.45
Hotels/motels per unit	$56.89	$85.33	$113.77
Commercial minimum	$81.20	$121.82	$162.43
Class 1 (31 to 100 mg/l) per 1,000 gallons	$1.71	$2.56	$3.40
Class 2 (101 to 200 mg/l) per 1,000 gallons	$2.34	$3.52	$4.68
Class 3 (201 to 300 mg/l) per 1,000 gallons	$3.00	$4.49	$5.99
Class 4 (301 to 400 mg/l) per 1,000 gallons	$3.64	$5.45	$7.28
Class 5 (401 to 500 mg/l) per 1,000 gallons	$4.29	$6.42	$8.56
Class 6 (501 to 600 mg/l) per 1,000 gallons	$6.22	$9.34	$12.43
Overnight camping			
Individual connections per unit	$56.89	$85.33	$113.77
Other connections, each	$77.23	$115.83	$154.44
Schools			
Minimum	$81.20	0	0
Per 1,000 gallons	$4.62	0	0
Restaurants w/o grease trap surcharge	$3.89	0	0

Effective January 1, 2016:

Classification Effective 1/1/16 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Single-family residential	$82.83	$124.26	$165.68
Multiple residential units per unit	$78.77	$118.14	$157.54
Hotels/motels per unit	$58.03	$87.04	$116.04
Commercial minimum	$82.83	$124.26	$165.68
Class 1 (31 to 100 mg/l) per 1,000 gallons	$1.74	$2.61	$3.47

Classification Effective 1/1/16 Bi-Monthly Rates	City Rate	Rural Rate	Outside UGA Rate
Class 2 (101 to 200 mg/l) per 1,000 gallons	$2.39	$3.59	$4.78
Class 3 (201 to 300 mg/l) per 1,000 gallons	$3.06	$4.58	$6.11
Class 4 (301 to 400 mg/l) per 1,000 gallons	$3.71	$5.56	$7.43
Class 5 (401 to 500 mg/l) per 1,000 gallons	$4.37	$6.55	$8.73
Class 6 (501 to 600 mg/l) per 1,000 gallons	$6.35	$9.53	$12.68
Overnight camping			
Individual connections per unit	$58.03	$87.04	$116.04
Other connections, each	$78.77	$118.14	$157.53
Schools			
Minimum	$82.83	0	0
Per 1,000 gallons	$4.71	0	0
Restaurants w/o grease trap surcharge	$3.97	0	0

(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 effective January 1, 2015, $3.89 per 1,000 gallons and effective January 1, 2016, $3.97 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. Schools' 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. 2975 § 2, 2014; Ord. 2948 § 2, 2013; Ord. 2916 § 2, 2012; Ord. 2881 § 3 (App. A), 2011; Ord. 2836 § 2, 2010; Ord. 2823 § 1, 2010; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2815

§ 2, 2010; Ord. 2758 § 2, 2008; Ord. 2727 § 2, 2007; Ord. 2680 §§ 2, 3, 4, 2006; Ord. 2620 §§ 2, 3, 4, 2006; Ord. 2548 §§ 2, 3, 4, 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).

14.07.075 Rate adjustments.

(1) Beginning in 2006, as part of the budget process, the rates and fees for water and sewer may be adjusted annually by two percent. Any such adjusted rates and fees shall become effective January 1st of the new budget year. Beginning in 2007, as part of the budget process, surface water fees may be adjusted annually by two percent. Any such adjusted rates and fees shall become effective January 1st of the new budget year.

(2) Proposed rate increases greater than the two percent will require a public hearing process prior to adoption. All proposed rate adjustments will not be automatic but shall be justified and shall be reviewed and approved by the city council. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2654 § 2, 2006).

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. 2816 § 1 (Exh. A), 2010; 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, extending over 200 feet from the nearest mainline, 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 for the length of the improvements. Such contracts shall be governed by the following provisions:

(1) Within 30 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 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) A preliminary determination of area boundaries and assessments, along with a description of the property owner's rights and options, 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 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.

(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 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.

(7) 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.

(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. 2816 § 1 (Exh. A), 2010; Ord. 2780 § 1, 2009; 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 newspaper 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. 2816 § 1 (Exh. A), 2010; 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 busi-

nesses shall have requested to be included on the 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. (Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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 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. 2816 § 1 (Exh. A), 2010; 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 for emergency fire fighting activities.

(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 and in areas where soapy water will not run off into the stormwater drainage system.

(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. 2816 § 1 (Exh. A), 2010; 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.

(4) Enforcement of the provisions of this chapter shall be pursuant to MMC Title 4. (Ord. 2816 § 1 (Exh. A), 2010; 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

CONTROLLING STORM WATER RUNOFF FROM NEW DEVELOPMENT, REDEVELOPMENT, AND CONSTRUCTION SITES

Sections:

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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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.015 Stormwater management manual adopted.

The 2005 State Department of Ecology Storm Water Management Manual for Western Washington, as amended by this code, is hereby adopted as the city's minimum storm water regulations and as a technical reference manual and maintenance standard and is hereinafter referred to as the "Stormwater Manual." (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.020 Definitions.

For the purpose of this chapter and other provisions in this title related to storm water, certain terms, phrases, words and their derivatives shall be defined and construed as specified in the Stormwater Manual and in this title. 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 title conflicts with definitions in the Stormwater Manual or any other ordinance of the city, that which provides more environmental protection shall apply unless specifically provided otherwise in this title.

(1) "Applicant" means any person who has applied for a development permit or approval.

(2) "Certified Erosion and Sediment Control Lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department of Ecology (see BMP C160 in the Stormwater Manual). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of storm water and the effectiveness of erosion and sediment control measures used to control the quality of storm water discharges.

(3) "City planner" also means community development director.

(4) "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.

(5) "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.

(6) "Department" means the public works or community development department of the city of Marysville, as appropriate for capital or private development projects.

(7) "Developer" means the individual(s) or corporation(s) or governmental agency(ies) applying for permits or approvals.

(8) "Director of public works" or "director" means the director of the public works department or his/her designee.

(9) Discharge Storm Water Directly or Indirectly to the Marysville Small Municipal Separate Storm Sewer System (MS4). A project discharges storm water directly or indirectly to the MS4 if:

(a) The drainage system installed is in right-of-way or an area that will become right-of-way after construction and final site approval;

(b) The drainage system installed will become publicly owned after construction and final site approval;

(c) The drainage system installed is intended to overflow to a portion of the existing MS4 or public right-of-way; or

(d) The drainage system installed is intended to outfall into a portion of the existing MS4 or public right-of-way.

(10) "Drainage system" or "storm drainage system" or "storm water system" means the same as the Stormwater Manual definition for "storm water drainage system."

(11) "Engineer" means the city engineer or development services manager, as designated for enforcement of capital or private development activities, of Marysville.

(12) "Existing grade" means the grade prior to grading.

(13) "Finish grade" means the final grade of the site, which conforms to the approved plan.

(14) "Grading" or "grading activity" means any excavating, filling, or grading or combination thereof.

(15) "Ground water" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

(16) "Municipal separate storm sewer system (MS4)" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

(a) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the United States;

(b) Designed or used for collecting or conveying storm water;

(c) Which is not a combined sewer; and

(d) Which is not part of a publicly owned treatment works (POTW) as defined in the Code of Federal Regulations at 40 CFR 122.2.

(17) "Parcel" means a tract or plot of land of any size, which may or may not be subdivided or improved.

(18) "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 22G.080 MMC).

(19) "Private drainage system" or "private storm water disposal systems" means drainage systems located on private property that may or may not discharge directly as through pipes, channels, etc., or indirectly as sheet flow, subsurface flow, etc., into the city's drainage system.

(20) "Public storm 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.

(21) "Rough grade" means the stage at which the grade approximately conforms to the approved plan.

(22) "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, and the proposed method of utilizing the existing drainage system.

(23) "Small municipal separate storm sewer system" or "small MS4" means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels and/or storm drains which is:

(a) Owned or operated by a city, town, county, district, association or other public body created pursuant to state law having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity.

(b) Designed or used for collecting or conveying storm water.

(c) Not a combined sewer system.

(d) Not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

(e) Not defined as "large" or "medium" pursuant to 40 CFR 122.26(b)(4) and (7) or designated under 40 CFR 122.26(a)(1)(v).

Small MS4s include systems similar to separate storm sewer systems in municipalities such as: universities, large publicly owned hospitals, prison complexes, highways and other thoroughfares.

Small MS4s do not include storm drain systems operated by nongovernmental entities such as: individual buildings, private schools, private colleges, private universities, and industrial and commercial entities.

(24) "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. See the Stormwater Manual for details.

(25) "Subject property" means the tract of land which is the subject of the permit and/or approval action.

(26) "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. (Ord. 2857 § 3, 2011; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2694 § 2, 2007; Ord. 2476 § 2, 2003).

14.15.030 Applicability.

(1) Storm water management review and approval by the city is required when any new development, redevelopment, or proposed construction site project meets or exceeds the threshold conditions defined in MMC 14.15.040 (e.g., new impervious area, drainage system modifications, redevelopments, etc.) and/or is subject to a city development permit or approval requirement. All the provisions of this title are applicable to any project requiring storm water management review and approval.

(2) Commencement of construction work under any of the nonexempt actions, permits, or applications shall not begin until the department approves a storm water pollution prevention plan (SWPPP) pursuant to the requirements of MMC 14.15.050.

(3) 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.

(4) Unless otherwise specified in this chapter, all standards, definitions, and requirements shall be in accordance with the Stormwater Manual.

(5) The following activities are exempt from the minimum requirements set forth in MMC 14.15.050:

(a) Forest Practices. Forest practices regulated under WAC Title 222, except for Class IV General forest practices that are conversions from timberland to other uses, are exempt from the provisions of the minimum requirements.

(b) Commercial Agriculture. Commercial agriculture practices involving working the land for production are generally exempt. However, the conversion from timberland to agriculture and the construction of impervious surfaces are not exempt.

(c) Oil and Gas Field Activities or Operations. Construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations are exempt. Operators are encouraged to implement and maintain best management practices to minimize erosion and control sediment during and after construction activities to help ensure protection of surface water quality during storm events.

(d) Road Maintenance.

(i) The following road maintenance practices are exempt: pothole and square cut patching, overlaying existing asphalt or concrete pave-

ment with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, and vegetation maintenance.

(ii) The following road maintenance practices are considered redevelopment, and therefore are not categorically exempt. The extent to which the minimum requirements in MMC 14.15.050 apply is explained for each circumstance.

(A) Removing and replacing a paved surface to base course or lower, or repairing the roadway base. If impervious surfaces are not expanded, MMC 14.15.050 minimum requirements Nos. (1) through (5) apply. However, in most cases, only MMC 14.15.050 minimum requirement No. (2), Construction Storm Water Pollution Prevention Plan (SWPPP), will be germane. Where appropriate, project proponents are encouraged to look for opportunities to use permeable and porous pavements.

(B) Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders: These are considered new impervious surfaces and are subject to the minimum requirements in MMC 14.15.050 that are triggered when the thresholds identified for redevelopment projects are met.

(C) Resurfacing by upgrading from dirt to gravel, asphalt, or concrete; upgrading from gravel to asphalt, or concrete; or upgrading from a bituminous surface treatment (“chip seal”) to asphalt or concrete: These are considered new impervious surfaces and are subject to the minimum requirements in MMC 14.15.050 that are triggered when the thresholds identified for redevelopment projects are met.

(e) Underground Utility Projects. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to MMC 14.15.050(2), Minimum Requirement No. 2, Construction Storm Water Pollution Prevention Plan (SWPPP). (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.040 Minimum requirement thresholds.

Not all of the minimum requirements in MMC 14.15.050 apply to every development or redevelopment project. The applicability varies depending on the type and size of the project. This section identifies thresholds that determine the applicability of the minimum requirements in MMC 14.15.050 to different projects. The flow charts in Figures 14.15.040(1) and 14.15.040(2) must be used to determine which of the minimum requirements in MMC 14.15.050 apply. The minimum requirements themselves are presented in MMC 14.15.050.

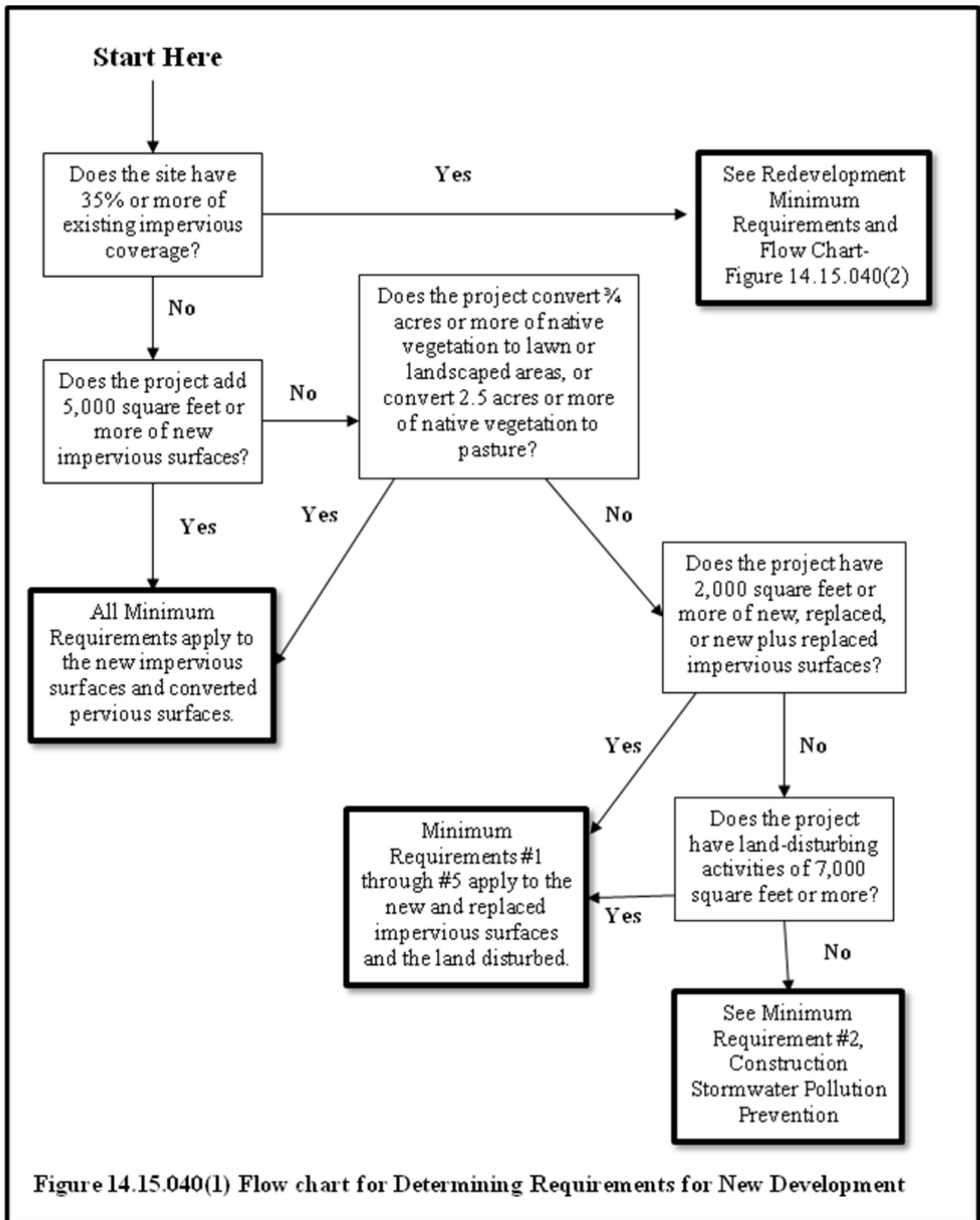

Figure 14.15.040(1) Flow chart for Determining Requirements for New Development

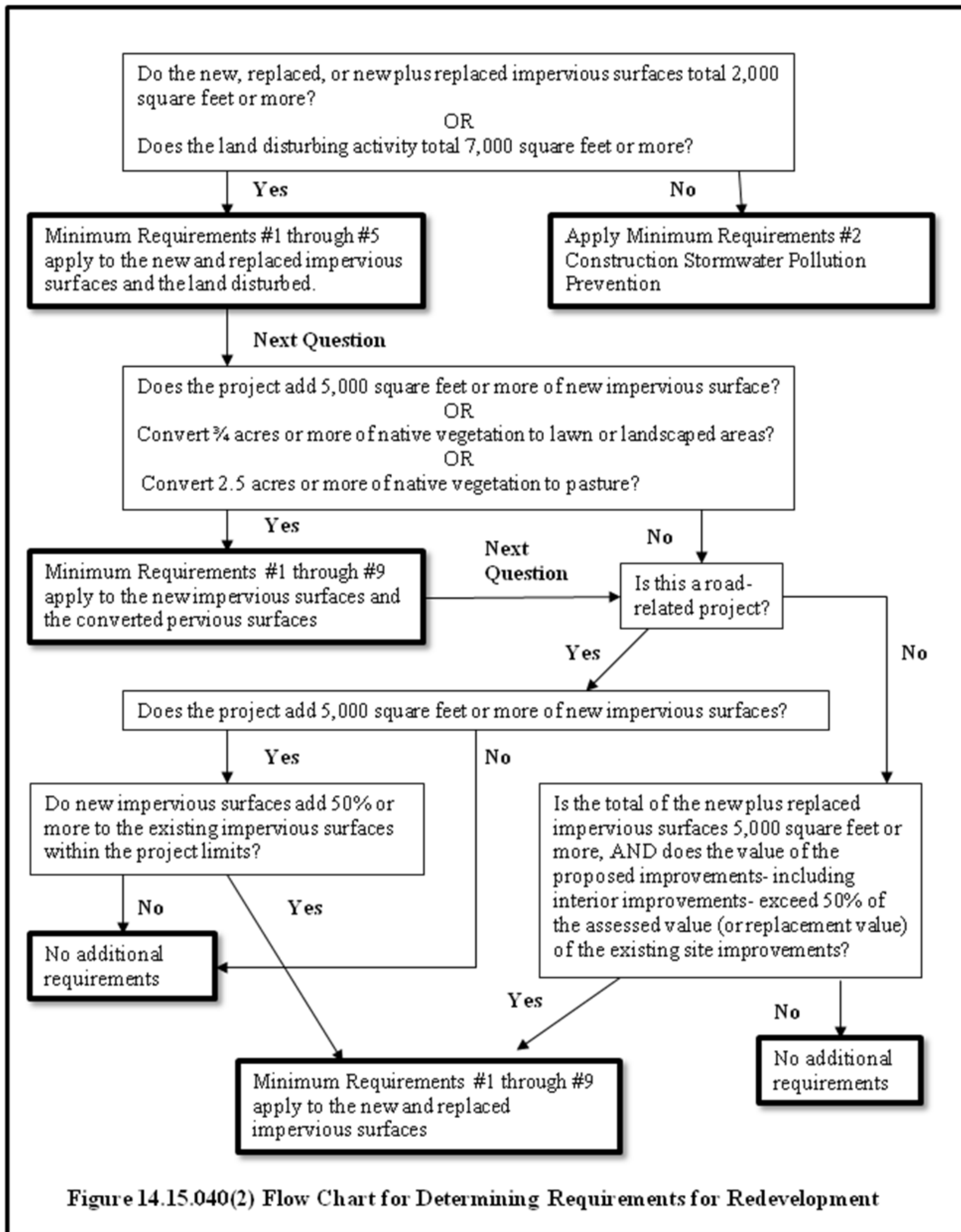

Figure 14.15.040(2) Flow Chart for Determining Requirements for Redevelopment

(1) New Development. All new development shall be required to comply with MMC 14.15.050(2), Minimum Requirement No. 2.

(a) The following new development shall comply with MMC 14.15.050 minimum requirements Nos. 1 through 5 for the new and replaced impervious surfaces and the land disturbed:

(i) Creates or adds 2,000 square feet, or greater, of new, replaced, or new plus replaced impervious surface area; or

(ii) Has land disturbing activity of 7,000 square feet or greater.

(b) The following new development shall comply with MMC 14.15.050 minimum requirements Nos. 1 through 9 for the new impervious surfaces and the converted pervious surfaces:

(i) Creates or adds 5,000 square feet, or more, 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 MMC 14.15.050(2), minimum requirement No. 2. In addition, all redevelopment that exceeds certain thresholds shall be required to comply with additional minimum requirements in MMC 14.15.050 as follows.

(a) The following redevelopment shall comply with MMC 14.15.050, 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) Seven thousand square feet or more of land disturbing activities.

(b) The following redevelopment shall comply with MMC 14.15.050 minimum requirements Nos. 1 through 9 for the new impervious surfaces and converted pervious areas:

(i) Adds 5,000 square feet or more of new impervious surfaces; 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.

(c) 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) The director may allow the minimum requirements in MMC 14.15.050 to be met for an equivalent (flow and pollution characteristics) area within the same site. For public roads projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.

(3) Additional Requirements for Redevelopment Project Sites.

(a) For road-related projects, runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) shall meet all the minimum requirements in MMC 14.15.050 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.

(b) Other types of redevelopment projects shall comply with all the minimum requirements in MMC 14.15.050 for the new and replaced impervious surfaces if the total of 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.

(c) 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 director has adopted a plan and a schedule that fulfills those requirements in regional facilities. See also MMC 14.15.175 and 14.15.180 and Chapter 14.18 MMC.

(d) The director may grant a variance/exception to the application of the flow control requirements to replaced impervious surfaces if such application imposes a severe economic hardship. See MMC 14.15.175 and 14.15.180. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.050 Minimum requirements.

This section describes the minimum requirements for storm water management at development and redevelopment sites. MMC 14.15.040 should be consulted to determine which of the minimum requirements below apply to any given project. Figures 14.15.040(1) and 14.15.040(2) should be consulted to determine whether the minimum requirements apply to new surfaces, replaced surfaces or new and replaced surfaces.

(1) Minimum Requirement No. 1: Preparation of Storm Water Site Plans. All projects meeting the thresholds in MMC 14.15.040 shall submit a storm water site plan. Storm water site plans shall be prepared in accordance with Chapter 3 of Volume I of the Stormwater Manual.

(2) Minimum Requirement No. 2: Construction Storm Water Pollution Prevention Plan (SWPPP).

(a) The city may choose to allow compliance with this minimum requirement to be achieved for an individual site if the site is covered under Ecology's General NPDES Permit for Storm Water Discharges Associated with Construction Activities and fully implementing the requirements of that permit.

(b) The city may choose to allow site operators to apply an "erosivity waiver" to projects disturbing less than five acres that meet the requirements in subsection (2)(j) of this section; such projects would be waived from the requirement that the city review site plans for construction phase storm water pollution prevention.

(c) The city may develop an abbreviated SWPPP format to meet the SWPPP requirement under the NPDES Phase II Municipal Storm Water Permit for sites that are less than 5,000 square feet of new impervious surface; or new, replaced, or new plus replaced is less than 2,000 square feet.

(d) All new development and redevelopment projects are responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters. All projects must submit a construction storm water pollution prevention plan (SWPPP) as part of the storm water site plan (see subsection (1) of this section, Minimum Requirement No. 1: Preparation of Storm Water Site Plans) for all projects which meet the thresholds in MMC 14.15.040. The SWPPP shall be implemented beginning with initial soil disturbance and until final stabilization.

(e) Sediment and erosion control BMPs shall be consistent with the BMPs contained in Chapters 3 and 4 of Volume II of the Stormwater Manual, and/or other equivalent BMPs contained in technical storm water manuals approved by the Department of Ecology.

(f) The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project. 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 Chapter 22E.010 MMC, Critical Areas Management, or Chapter 22D.050 MMC, Clearing, Grading, Filling and Erosion Control, shall be delineated on the site plans and the development site.

(g) Seasonal Work Limitations. From October 1st through April 30th, clearing, grading, and other soil disturbing activities are only authorized if silt-laden runoff will be prevented from leaving the site through a combination of the following:

(i) Site conditions including existing vegetative coverage, slope, soil type and proximity to receiving waters; and

(ii) Limitations on activities and the extent of disturbed areas; and

(iii) Proposed erosion and sediment control measures.

(h) Based on the information provided and/or local weather conditions, the director may expand or restrict the seasonal limitation on site disturbance. The following activities are exempt from the seasonal clearing and grading limitations:

(i) Routine maintenance and necessary repair of erosion and sediment control BMPs;

(ii) Routine maintenance of public facilities or existing utility structures that does not expose the soil or result in the removal of the vegetative cover to soil; and

(iii) Activities where there is 100 percent infiltration of surface water runoff within the site in approved and installed erosion and sediment control facilities.

(i) Construction Storm Water Pollution Prevention Plan (SWPPP) Elements. The construction site operator shall include each of the 12 elements below in the SWPPP and ensure that they are implemented unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP. The SWPPP shall include both narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project.

(i) Element 1 – Preserve Vegetation/Mark Clearing Limits.

(A) Prior to beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area.

(B) Plastic, metal, or stake wire fencing may be used to mark the clearing limits.

(C) The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum degree practicable.

(ii) Element 2 – Establish Construction Access.

(A) Construction vehicle access and exit shall be limited to one route, if possible, or two routes for linear projects such as roadways where more than one access is necessary for large equipment maneuvering.

(B) Access points shall be stabilized with quarry spalls, crushed rock or other equivalent BMP to minimize the tracking of sediment onto public roads.

(C) Wheel wash or tire baths shall be located on site, if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.

(D) If sediment is tracked off site, roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area.

(E) Street washing is allowed only after sediment is removed in accordance with subsection (2)(i)(ii)(D) of this section. Street wash wastewater shall be controlled by pumping back on site or otherwise be prevented from discharging into systems tributary to waters of the state.

(iii) Element 3 – Control Flow Rates.

(A) Properties and waterways downstream from development sites shall be protected from erosion due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site.

(B) Downstream analysis is required. See Chapter 3 of the Stormwater Manual for offsite analysis guidance.

(C) Where necessary to comply with subsection (2)(i)(iii)(A) of this section, stormwater retention or 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).

(D) The director may require pond designs that provide additional or different stormwater 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 stormwater runoff from the project site.

(E) If permanent infiltration ponds are used for flow control during construction, these facilities should be protected from siltation during the construction phase.

(iv) Element 4 – Install Sediment Controls.

(A) Stormwater runoff from disturbed areas shall pass through a sediment pond, or other appropriate sediment removal BMP, prior to leaving a construction site or prior to discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but shall meet the flow control performance standard of subsection (2)(i)(iii)(A) of this section.

(B) Sediment control BMPs (sediment ponds, traps, filters, etc.) shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land disturbing activities take place.

(C) BMPs intended to trap sediment on site shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

(v) Element 5 – Stabilize Soils.

(A) Exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion.

(B) No soils should remain exposed and unworked for more than the time periods set forth below to prevent erosion:

• During the dry season (May 1st through September 30th): seven days.

• During the wet season (October 1st through April 30th): two days.

(C) The time period may be adjusted by the director, if the director determines that local precipitation data justify a different standard.

(D) Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.

(E) Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and, where possible, be located away from storm drain inlets, waterways and drainage channels.

(F) Applicable practices include, but are not limited to, temporary and permanent seed-

ing, sodding, mulching, plastic covering, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.

(G) 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.

(H) Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and, where possible, be located away from storm drain inlets, waterways and drainage channels.

(vi) Element 6 – Protect Slopes.

(A) Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion.

(B) Soil type and its potential for erosion shall be considered.

(C) Slope runoff velocities shall be reduced by reducing the continuous length of slope with terracing and diversions, reducing slope steepness, and roughening slope surface.

(D) Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and undisturbed areas with interceptor dikes, pipes and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.

(E) At the top of slopes, drainage shall be collected in pipe slope drains or channels shall be protected to prevent erosion. Temporary pipe slope drains shall handle the expected peak 10-minute flow velocity from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model to predict flows, bare soil areas should be modeled as “landscaped area.”

(F) Drainage shall be provided to remove ground water intersecting the slope surface of exposed soil areas.

(G) Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

(H) Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.

(vii) Element 7 – Protect Drain Inlets.

(A) Storm drain inlets made operable during construction shall be protected so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.

(B) All approach roads shall be kept clean. 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.

(C) Inlet protection devices shall be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

(viii) Element 8 – Stabilize Channels and Outlets.

(A) All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the following expected peak flows. Channels shall handle the expected peak 10-minute flow velocity from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model to predict flows, bare soil areas should be modeled as “landscaped area.”

(B) 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.

(ix) Element 9 – Control Pollutants.

(A) All pollutants, including waste materials and demolition debris, that occur on site shall be handled and disposed of in a manner that does not cause contamination of stormwater.

(B) Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a

threat to human health or the environment. On-site fueling tanks shall include secondary containment.

(C) Maintenance, fueling and repair of heavy equipment and vehicles shall be conducted using spill prevention and control measures. Contaminated surfaces shall be cleaned immediately following any spill incident.

(D) Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer with local sewer district approval.

(E) Application of fertilizers and pesticides shall be conducted in a manner and at application rates that will not result in loss of chemical to stormwater runoff. Manufacturers' label requirements for application rates and procedures shall be followed.

(F) BMPs shall be used to prevent or treat contamination of stormwater runoff by pH modifying sources. 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, dewatering concrete vaults, concrete pumping and mixer washout waters. Construction site operators shall adjust the pH of stormwater if necessary to prevent violations of water quality standards.

(G) Construction site operators shall obtain written approval from the Department of Ecology prior to using chemical treatment other than CO_2 or dry ice to adjust pH.

(x) Element 10 – Control Dewatering.

(A) Foundation, vault, and trench dewatering water, which have similar characteristics to stormwater runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond.

(B) Clean, nonturbid dewatering water, such as well-point ground water, can be discharged to systems tributary to or directly into surface waters of the state, as specified in subsection (2)(i)(viii) of this section, Element 8 – Stabilize Channels and Outlets, provided the dewatering flow does not cause erosion or flooding of receiving waters. Clean dewatering water should not be routed through stormwater sediment ponds.

(C) Other dewatering disposal options may include: (1) infiltration; (2) transport off site in vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters; (3) on-site chemical treatment or other suitable treatment technologies approved by the director; (4) sanitary sewer discharge with local sewer district approval, if there is no other option; or (5) use of a sedimentation bag with outfall to a ditch or swale for small volumes of localized dewatering.

(D) Highly turbid or contaminated dewatering water shall be handled separately from stormwater.

(xi) Element 11 – Maintain BMPs.

(A) All temporary and permanent erosion and sediment control BMPs shall be inspected, maintained and repaired as needed to assure continued performance of their intended function in accordance with BMP specifications.

(B) 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. Disturbed soil areas resulting from removal of BMPs or vegetation shall be permanently stabilized.

(xii) Element 12 – Manage the Project.

(A) Development projects shall be phased to the maximum degree practicable and shall take into account seasonal work limitations.

(B) The construction site operator shall maintain, and repair as needed, all sediment and erosion control BMPs to assure continued performance of their intended function.

(C) The construction site operator shall periodically inspect its sites. For projects that disturb one or more acres, site inspections shall be conducted by a certified erosion and sediment control lead, who shall be identified in the SWPPP and shall be present on site or on call at all times.

(D) Construction site operators shall maintain, update and implement their SWPPP. Construction site operators shall modify their SWPPP whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.

(j) Erosivity Waiver. The city may allow construction site operators to qualify for a waiver from the requirement to submit an SWPPP for review by the city provided the following conditions are met:

(i) The site will result in the disturbance of less than five acres; and the site is not a portion of a common plan of development or sale that will disturb five acres or greater; and

(ii) The project's rainfall erosivity factor ("R" Factor) is less than five during the period of construction activity, as calculated using the Texas A&M University online rainfall erosivity calculator at: http://ei.tamu.edu/. The period of construc-

tion activity begins at initial earth disturbance and ends with final stabilization; and

(iii) The entire period of construction activity falls between June 15th and September 15th; and

(iv) The site or facility has not been declared a significant contributor of pollutants; and

(v) There are no planned construction activities at the site that will result in non-stormwater discharges; and

(vi) A waiver is allowed by the city; and

(vii) The construction site operators notify the city of the intention to apply this waiver at least one week prior to commencing land disturbing activities. The notification must include a summary of the project information used in calculating the project's rainfall erosivity factor (see subsection (2)(j)(ii) of this section) and a certified statement that:

(A) The operator will comply with applicable local stormwater requirements; and

(B) The operator will implement appropriate erosion and sediment control BMPs to prevent violations of water quality standards.

(3) Minimum Requirement No. 3: Source Control of Pollution. All known, available and reasonable source control BMPs are required for all projects approved in the city. Source control BMPs must be selected, designed, and maintained in accordance with Volume IV of the Stormwater Manual or an approved equivalent manual approved by the Department of Ecology.

(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 Stormwater Management. The project site must provide on-site stormwater management BMPs to infiltrate, disperse, and retain stormwater runoff on site to the maximum extent feasible without causing flooding or erosion impacts. Roof downspout control BMPs, functionally equivalent to those described in Chapter 3 of Volume III of the Stormwater Manual, and dispersion and soil quality BMPs, functionally equivalent to those in Chapter 5 of Volume V of the Stormwater Manual, shall be required to reduce the hydrologic disruption of developed sites.

(6) Minimum Requirement No. 6: Runoff Treatment.

(a) Project Thresholds. The following require construction of stormwater treatment facilities (see Table 14.15.050(6) below):

(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.

Table 14.15.050(6) Treatment Requirements by Threshold Discharge Area

	< 3/4 acres of PGPS	**> 3/4 acres PGPS**	**< 5,000 sf PGIS**	**> 5,000 sf PGIS**
Treatment Facilities		X		X
On-site Stormwater BMPs	X	X	X	X

PGPS = pollution-generating pervious surfaces
PGIS = pollution-generating impervious surfaces
sf = square feet

(b) Treatment Type Thresholds. If the construction project requires stormwater treatment, the following treatment type thresholds shall be used to determine applicable treatment options:

(i) Oil Control. Treatment to achieve oil control applies to projects that have "high-use sites." High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:

(A) An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;

(B) An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;

(C) An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);

(D) A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.

(ii) Enhanced Treatment. Enhanced treatment for reduction in dissolved metals is required for the following project sites that discharge to fish-bearing streams, lakes, or to waters or conveyance systems tributary to fish-bearing streams or lakes:

(A) Industrial project sites;

(B) Commercial project sites;

(C) Multifamily project sites; and

(D) High AADT roads as follows:

• Fully controlled and partially controlled limited access highways with Annual Average Daily Traffic (AADT) counts of 15,000 or more;

• All other roads with an AADT of 7,500 or greater.

However, such sites listed above that discharge directly (or indirectly through a municipal storm sewer system) to Basic Treatment Receiving Waters (Appendix I-C of the Stormwater Manual), and areas of the above-listed project sites that are identified as subject to basic treatment requirements, are also not subject to enhanced treatment requirements. For developments with a mix of land use types, the enhanced treatment requirement shall apply when the runoff from the areas subject to the enhanced treatment requirement comprise 50 percent or more of the total runoff within a threshold discharge area.

(iii) Basic Treatment. Basic treatment generally applies to:

(A) Project sites that discharge to the ground, unless:

• The soil suitability criteria for infiltration treatment are met (see Chapter 3 of Volume III of the Stormwater Manual for soil suitability criteria); or

• The project uses infiltration strictly for flow control – not treatment – and the discharge is within one-quarter mile of a phosphorus-sensitive lake (use a phosphorus treatment facility), or within one-quarter mile of a fish-bearing stream or a lake (use an enhanced treatment facility).

(B) Residential projects not otherwise needing phosphorus control as designated by U.S. EPA, the Department of Ecology, or by the city.

(C) Project sites discharging directly to salt waters, river segments, and lakes listed in Appendix I-C of the Stormwater Manual.

(D) Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams.

(E) Landscaped areas of industrial, commercial, and multifamily project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the basic treatment requirement shall apply when the runoff from the areas subject to the basic treatment requirement comprises 50 percent or more of the total runoff within a threshold discharge area.

(c) Treatment Facility Sizing – Water Quality Design Storm Volume. The volume of runoff predicted from a 24-hour storm with a six-month return frequency (a.k.a., six-month, 24-hour storm). Wetpool facilities are sized based upon the volume of runoff predicted through use of the Natural Resource Conservation Service curve number equations in Chapter 2 of Volume III of the Stormwater Manual, for the six-month, 24-hour storm. Alternatively, the ninety-first percentile, 24-hour runoff volume indicated by an approved continuous runoff model may be used.

(d) Water Quality Design Flow Rate.

(i) Preceding Detention Facilities or When Detention Facilities Are Not Required. The flow rate at or below which 91 percent of the runoff

volume, as estimated by an approved continuous runoff model, will be treated. Design criteria for treatment facilities are assigned to achieve the applicable performance goal at the water quality design flow rate (e.g., 80 percent TSS removal).

(ii) Downstream of Detention Facilities. The water quality design flow rate must be the full two-year release rate from the detention facility.

(A) Alternative methods may be used if they identify volumes and flow rates that are at least equivalent.

(B) 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 stormwater management BMPs in accordance with subsection (5) of this section, Minimum Requirement No. 5: On-Site Stormwater Management.

(e) Treatment Facility Selection, Design, and Maintenance. Stormwater treatment facilities shall be:

(i) Selected in accordance with the process identified in Chapter 4 of Volume I of the Stormwater Manual;

(ii) Designed in accordance with the design criteria in Volume V of the Stormwater Manual; and

(iii) Maintained in accordance with the maintenance schedule in Volume V of the Stormwater Manual.

(f) Additional Requirements. The discharge of untreated stormwater 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 stormwater management BMPs.

(7) Minimum Requirement No. 7: Flow Control.

(a) Applicability. Except as provided below, all projects shall provide flow control to reduce the impacts of stormwater runoff from impervious surfaces and land cover conversions. The requirement below applies to projects that discharge stormwater directly, or indirectly through a conveyance system, into a fresh water.

(i) Flow control is not required for projects that discharge directly to, or indirectly through an MS4 to a water listed in Appendix I-E of the Stormwater Manual subject to the following restrictions:

(A) Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Types 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Types “S,” “F,” or “Np” in the Permanent Water Typing System, or from any category I, II, or III wetland; and

(B) Flow splitting devices or drainage BMPs are applied to route natural runoff volumes from the project site to any downstream Type 5 stream or category IV wetland:

• Design of flow splitting devices or drainage BMPs will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5 stream reaches will approximate, but in no case exceed, durations ranging from 50 percent of the two-year to the 50-year peak flow.

• Flow splitting devices or drainage BMPs that deliver flow to category IV wetlands will also be designed using continuous hydrologic modeling to preserve pre-project wetland hydrologic conditions unless specifically waived or exempted; and

(C) The project site 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 exempt receiving water; and

(D) The conveyance system between the project site and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from future build-out conditions (under current zoning) of the site, and the existing condition from nonproject areas from which runoff is or will be collected; and

(E) Any erodible elements of the manmade conveyance system must be adequately stabilized to prevent erosion under the conditions noted above.

(ii) If the discharge is to a stream that leads to a wetland, or to a wetland that has an outflow to a stream, both this minimum requirement (Minimum Requirement No. 7) and subsection (8) of this section, minimum requirement No. 8, apply.

(b) Thresholds. That portion of any development project in which the below thresholds are not exceeded in a threshold discharge area shall apply on-site stormwater management BMPs in accordance with subsection (5) of this section, Minimum Requirement No. 5: On-Site Stormwater Management. The following require construction of flow control facilities and/or land use management BMPs that will achieve the standard flow control requirement for western Washington (see Table 14.15.050(7)):

(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 approved in the Stormwater Manual.

Table 14.15.050(7) 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		X
> 3/4 acres conversion to lawn/landscape, or > 2.5 acres to pasture	X	X
< 10,000 square feet of effective impervious area		X
> 10,000 square feet of effective impervious area	X	X
> 0.1 cubic feet per second increase in the 100-year flood frequency	X	X

(c) Standard Flow Control Requirement. Storm water discharges shall match developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 50 percent of the two-year peak flow up to the full 50-year peak flow. This standard requirement is waived for sites that will reliably infiltrate all the runoff from impervious surfaces and converted pervious surfaces. The pre-developed condition to be matched shall be a forested land cover unless:

(i) Reasonable, historic information is available that indicates the site was prairie prior to settlement (modeled as "pasture" in the Western Washington Hydrology Model); or

(ii) The drainage area of the immediate stream and all subsequent downstream basins have had at least 40 percent total impervious area since 1985. In this case, the pre-developed condition to be matched shall be the existing land cover condition. Where basin-specific studies determine a stream channel to be unstable, even though the above criterion is met, the pre-developed condition assumption shall be the "historic" land cover condition, or a land cover condition commensurate with achieving a target flow regime identified by an approved basin study.

(d) Additional Requirement. Flow control BMPs shall be selected, designed, and maintained in accordance with Volume III of the Stormwater Manual or an approved equivalent.

(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 subsection (6) of this section, Minimum Requirement No. 6: Runoff Treatment.

(b) Thresholds. The thresholds identified in subsection (6) of this section, Minimum Requirement No. 6: Runoff Treatment, and subsection (7) of this section, 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. The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise. A wetland can be considered for hydrologic modification and/or storm water treatment in accordance with Guide Sheet 1B in Appendix I-D on the Stormwater Manual.

(d) Additional Requirements. Storm water treatment and flow control facilities shall not be built within a natural vegetated buffer, except for:

(i) As necessary, conveyance systems as approved by the director; or

(ii) As allowed in wetlands approved for hydrologic modification and/or treatment in accor-

dance with Guide Sheet 1B in Appendix I-D of the Stormwater Manual.

(9) Minimum Requirement No. 9: Operation and Maintenance. All project submittals must include an operation and maintenance manual that is consistent with the provisions in Volume V of the Stormwater Manual for all proposed storm water facilities and BMPs. The party (or parties) responsible for maintenance and operation shall be identified in the operation and maintenance manual. For private facilities approved by the city, 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 in the appropriate department. A log of maintenance activity that indicates what actions were taken shall be kept and be available for inspection by the city. (Ord. 2857 § 3, 2011; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2694 § 2, 2007; Ord. 2476 § 2, 2003).

14.15.062 Low impact development (LID) – Alternative drainage standards.

Low impact BMPs are an alternative to conventional storm water management systems that rely on detention ponds and closed conveyance. Instead, low impact development is intended to manage runoff close to the source of generation and to mimic the predeveloped hydrologic condition of a site. This is accomplished first through minimizing the impervious surface coverage and second by managing runoff through dispersion, infiltration, evapotranspiration, or a combination of these approaches. Use of LID BMPs may reduce or eliminate the need for conventional detention facilities but does not remove the obligation to comply with the minimum requirements in MMC 14.15.050. A variety of BMPs to minimize impervious surfaces and to manage storm water have been developed and tested for use in western Washington. These BMPs and the overall LID approach are described in the LID Technical Guidance Manual for Puget Sound.

The menu of LID BMPs identified in the LID Technical Guidance Manual for Puget Sound are accepted for use in storm water site plans to address the minimum requirements for flow control and runoff treatment in MMC 14.15.050, subject to the specifications, performance standards, and design criteria in the LID Technical Guidance Manual for Puget Sound, review and approval under this chapter, Chapter 22C.260 MMC, as applicable, and the requirements and limitations below.

(1) The city engineer may approve the following LID BMPs to meet water quality treatment requirements:

(a) Full Dispersion. Sites that are approved for full dispersion, consistent with the standards in the LID Technical Guidance Manual for Puget Sound, are not required to provide water quality treatment.

(b) Bioretention. Any storm water runoff that infiltrates through the imported soil mix in an approved bioretention facility will have received the equivalent of enhanced treatment. Where bioretention is intended to fully meet treatment requirements, facilities shall be designed, using an approved continuous runoff model, to infiltrate 60 percent of the developed two-year peak flow.

(2) In addition to the requirements in MMC 14.15.065, applicants for LID BMPs shall provide a site assessment. The site assessment shall include the following, unless waived or modified by the city engineer:

(a) A mapped inventory of existing vegetation and description of tree cover and understory;

(b) A mapped inventory of wetlands and streams and required buffers under Chapter 22E.010 MMC on the site;

(c) A survey prepared by a registered land surveyor or other licensed professional to conduct surveys showing existing development, including utility infrastructure, on and adjacent to the site, major and minor hydrologic features, including seeps, springs, closed depression areas, drainage swales, and topographic relief at two-foot contours;

(d) The location of all existing and proposed lot lines and easements;

(e) A soils report by a licensed geotechnical engineer or licensed engineering geologist. The report shall identify:

(i) Underlying soils on the site, utilizing soil pits and soil grain analysis to assess infiltration capability. The frequency and distribution of test pits shall be adequate to direct placement of the roads and structures away from soils that can most effectively infiltrate storm water;

(ii) Topographic features that may act as natural storm water storage or conveyance and underlying soils that provide opportunities for storage and partial infiltration;

(iii) Depth to ground water;

(iv) Landslide hazard areas on the site and the distance to slopes over 25 percent or landslide hazard areas within 500 feet of the site;

(f) Flood hazard areas on or adjacent to the site;

(g) SEPA environmental checklist.

(3) Additional studies may be required to address potential impacts to down-slope properties.

(4) Restrictions on conversion of drainage facilities shall be recorded on the face of the plat.

(5) A covenant shall be recorded with the Snohomish County auditor's office for each lot containing or served by bioretention facilities in a form approved by the city attorney. The covenant shall identify requirements and liability for preservation and maintenance of low impact development facilities approved under this chapter and privately held in individual or undivided ownership or intended for public ownership.

(6) An easement shall be granted for city access to low impact development facilities on private property to allow inspection, maintenance, and repair. (Ord. 2857 § 3, 2011; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2694 § 2, 2007).

14.15.065 Contents of a storm water site plan.

(1) Storm Water Site Plan Required. New development and redevelopment projects must submit a storm water site plan for approval by the department as set forth in MMC 14.15.040.

(2) Contents of Plan. In addition to the requirements described in MMC 14.15.050 and the Stormwater Manual, an off-site analysis report shall be required. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.066 Determining construction site sediment damage potential.

Any person submitting a storm water site plan must also determine the construction site sediment damage potential. Qualified personnel must use the rating system described in Appendix 7 of the NPDES Phase II Municipal Storm Water Permit to determine the site's potential to discharge sediment. The damage potential rating must be submitted and approved to receive final civil plan review approval. (Ord. 2816 § 1, 2010).

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 and Chapter 22E.010 MMC, Critical Areas Management. (Ord. 2857 § 3, 2011; Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.100 Construction standards and specifications.

The director shall approve, prepare, administer, and enforce detailed construction standards and specifications for all storm drainage lines, on-site storm water and erosion control facilities. 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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.110 Review and approval of plans.

All storm water site plans and any other documents required by or prepared in connection with this chapter shall be submitted for review and approval by the director or designee.

The applicant shall keep two sets of plans on site at all times for recording as-built information; one set shall be submitted to the project engineer, and one set shall be submitted to the director at completion of construction and prior to final acceptance of work. The owner and/or contractor shall notify the project engineer and the director when conflicts exist between the plans and field conditions. Conflicts shall be resolved (including plan and profile revisions) and resubmitted for approval prior to proceeding with construction. For further plan retention and revision requirements for storm water site plans and construction storm water pollution prevention plans see the Stormwater Manual and MMC 14.15.050(2), Minimum Requirement No. 2: Construction Storm Water Pollution Prevention Plan (SWPPP). (Ord. 2816 § 1 (Exh. A), 2010; 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. Inspection prior to clearing and construction will apply to sites with a high potential for sediment damage, as identified by the applicant during civil review based on definitions and requirements of Appendix 7 of the Western Washington Phase II Municipal Storm Water Permit;

(2) Grading Preparation. Whenever work on the site preparation, grading, excavations, or fill is ready to be commenced, but in all cases prior thereto subject also to provisions of MMC 22D.050.070;

(3) Rough Grading. When all rough grading has been completed;

(4) Bury Inspection. Prior to burial of any underground drainage structure;

(5) Finish Grading. When all work including installation of all drainage structures and other protective devices has been completed;

(6) Planting. When erosion control planting shows active growth;

(7) System-wide inspections for residential developments will take place after all flow control and water quality treatment facilities are completed during the period of heaviest house construction to identify maintenance needs and enforce compliance with maintenance standards as needed.

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. 2857 § 3, 2011; Ord. 2816 § 1 (Exh. A), 2010; 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 system features 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. Alterna-

tively, 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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.140 City assumption of maintenance.

The city may assume the maintenance of stormwater drainage system facilities after the expiration of the two-year maintenance period if:

(1) Conveyance to the city occurred per MMC 14.03.420;

(2) All of the requirements of this chapter have been fully complied with;

(3) The facilities have been inspected and approved by the department after two years of operation;

(4) All necessary easements entitling the city to properly maintain the facility have been conveyed to the city. (Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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, or persons with a shared ownership interest in the property, or their heirs, successors and assigns, to operate, maintain, repair and replace the facilities in continuous compliance with the standards and specifications of Chapter 14.17 MMC. The director or designee shall have authority to periodically enter upon the property and inspect the facilities to ensure such compliance. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.170 Applicability to governmental entities.

All municipal corporations and governmental entities shall be required to submit a stormwater site 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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.175 Adjustments.

All adjustments to the minimum requirements in MMC 14.15.050 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. Adjustments to the minimum requirements may be granted by the director; provided, that a written finding of fact is prepared, that addresses the following:

(1) The adjustment provides substantially equivalent environmental protection.

(2) Based on sound engineering practices, the objectives of safety, function, environmental protection and facility maintenance are met. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.180 Exceptions.

(1) Exceptions to the minimum requirements in MMC 14.15.050 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.

(2) Exceptions/variances (exceptions) to the minimum requirements in MMC 14.15.050 may be granted by the director following legal public notice of an application for an exception or variance, legal public notice of the director's decision on the application, and written findings of fact that document the director's determination to grant an exception. The city will keep records, including the written findings of fact, of all exceptions to the minimum requirements in MMC 14.15.050.

(3) Project-specific design exceptions based on site-specific conditions do not require prior approval of the Department of Ecology. The city will seek prior approval by the Department of Ecology for any jurisdiction-wide exception.

(4) The director may grant an exception to the minimum requirements in MMC 14.15.050 if such application imposes a severe and unexpected economic hardship. To determine whether the application imposes a severe and unexpected economic hardship on the project applicant, the director must consider and document with written findings of fact the following:

(a) The current (pre-project) use of the site; and

(b) How the application of the minimum requirement(s) in MMC 14.15.050 restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of the minimum requirements; and

(c) The possible remaining uses of the site if the exception were not granted; and

(d) The uses of the site that would have been allowed prior to the adoption of the minimum requirements in MMC 14.15.050; and

(e) A comparison of the estimated amount and percentage of value loss as a result of the minimum requirements in MMC 14.15.050 versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the minimum requirements in MMC 14.15.050; and

(f) The feasibility for the owner to alter the project to apply the minimum requirements in MMC 14.15.050.

(5) In addition, any exception must meet the following criteria:

(a) The exception will not increase risk to the public health and welfare, nor be injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

(b) The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements in MMC 14.15.050. (Ord. 2816 § 1 (Exh. A), 2010; 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/or the city planner may be 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 forth 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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.190 Enforcement.

Enforcement of the provisions of this chapter shall be pursuant to MMC Title 4. (Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

14.15.220 Appeals.

The decision of the director may be appealed by an aggrieved party pursuant to MMC 22G.010.530 to the 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. 2857 § 3, 2011; Ord. 2816 § 1 (Exh. A), 2010; Ord. 2476 § 2, 2003).

Chapter 14.16

OPERATION AND MAINTENANCE OF PUBLIC STORM DRAINAGE SYSTEMS

Sections:

14.16.010 Purpose.
14.16.020 Ownership and maintenance of public facilities.
14.16.025 Maintenance of drainage ditches.
14.16.030 Storm water facility maintenance standards adopted.
14.16.040 Maintenance of low impact development (LID) facilities.
14.16.120 Oversizing reimbursement.
14.16.130 Recovery contracts.
14.16.140 Enforcement.

14.16.010 Purpose.

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, ensuring the safety of city roads and rights-of-way, and decreasing drainage-related damage to public and private property. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 3, 1999).

14.16.020 Ownership and maintenance of public facilities.

(1) 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 unless otherwise dedicated to private ownership during the plan approval process 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 as specified in MMC 14.03.420. The city may accept privately constructed facilities in residential developments. All other facilities will be dedicated to private ownership at the discretion of the director. The maintenance responsibility of private facilities will be

borne by the property owner or the persons with shared interest in the facility as specified in Chapter 14.17 MMC.

(2) When an inspection identifies an exceedance of the maintenance standard, maintenance shall be performed in accordance with the following schedule:

(a) Within one year for typical maintenance of facilities, except catch basins.

(b) Within six months for catch basins.

(c) Within two years for maintenance that requires capital construction of less than $25,000. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 3, 1999).

14.16.025 Maintenance of drainage ditches.

For provisions relating to the maintenance of drainage ditches, see MMC 14.17.030. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 3, 1999).

14.16.030 Storm water facility maintenance standards adopted.

All maintenance shall be conducted as set forth in the Stormwater Manual. If the Stormwater Manual does not have a maintenance standard that applies to a storm water facility, then the city may use the manual developed by the manufacturer of the facility. In all cases the applicant shall provide the proposed maintenance program to the city for approval before construction of the facility occurs. (Ord. 2816 § 1, 2010).

14.16.040 Maintenance of low impact development (LID) facilities.

The city shall inspect LID facilities and monitor the ongoing function of both private and public facilities. Routine maintenance, such as trash removal, weeding, mulching and pruning of LID facilities, shall be performed on public facilities in accordance with the maintenance requirements outlined in the most current edition of the LID Technical Guidance Manual for Puget Sound, and as specified in city standards, maintenance specifications, and any recorded maintenance agreements. (Ord. 2816 § 1, 2010).

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. 2816 § 1 (Exh. A), 2010; 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 30 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. 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.

(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 owner's 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, 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.

(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. 2816 § 1 (Exh. A), 2010; Ord. 2780 § 2, 2009; Ord. 2245 § 3, 1999).

14.16.140 Enforcement.

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 criminal fine and imprisonment or by civil penalties, as set forth in MMC Title 4. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 3, 1999).

Chapter 14.17

OPERATION AND MAINTENANCE OF PRIVATE STORM DRAINAGE SYSTEMS

Sections:

14.17.010 Duty to maintain.
14.17.020 Minimum stormwater facility maintenance standards.
14.17.030 Maintenance of drainage ditches.
14.17.035 Maintenance of low impact development (LID) facilities.
14.17.040 Inspection by city.
14.17.080 Enforcement.
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 the owner's own expense, all private storm water disposal systems located on the property or within an area of shared interest owned in common with other property owners. 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 or property owners' association. Alternatively, the city may pursue other legal options, including condemning the property as a health and safety nuisance and acquiring ownership thereof. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 4, 1999).

14.17.020 Minimum stormwater facility maintenance standards.

The following are the minimum standards for the maintenance of stormwater 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 or within an area of shared interest owned in common with other property owners. Maintenance shall be performed in accordance with the Stormwater Manual and in accordance with any maintenance schedule or approved maintenance manual for the facility that was 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) Inspection frequency shall be as specified in the Stormwater Manual or approved maintenance manual. Records of the inspection shall be retained on site or by the owner or administrator of the facility. If records are requested by the director, response is required within 90 days.

(4) Vegetated stormwater facilities, such as grassed swales and biofilters, shall be inspected, mowed and replanted as required by the Stormwater Manual or other applicable maintenance manual as set forth herein.

(5) When an inspection identifies an exceedance of the maintenance standard, maintenance shall be performed in accordance with the following schedule:

(a) Within one year for typical maintenance of facilities, except catch basins.

(b) Within six months for catch basins.

(c) Within two years for maintenance that requires construction of less than $25,000.

(6) 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 stormwater maintenance activities; and, where appropriate, Chapter 173-303 WAC, Dangerous Waste Regulations. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 4, 1999).

14.17.030 Maintenance of drainage ditches.

(1) Open drainage ditches located on private property or 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, 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) No person shall cause or permit open drainage swales and ditches to be obstructed, filled, graded or used for disposal of debris.

(3) Upon receiving express approval from the director of the department of public works, a property owner may convert a drainage 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 may be conveyed to the city, at no cost, by a bill of sale. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 4, 1999).

14.17.035 Maintenance of low impact development (LID) facilities.

(1) Approved LID facilities, which are located on private property or in public street rights-of-way but dedicated to private ownership, shall be cleaned, maintained and protected in continuous compliance with this title, the standards and specifications of the city, and any recorded maintenance agreements. Responsibility for such work shall be borne by the owner of the underlying property or parties with shared ownership interest.

(2) Property owners shall inspect and maintain approved LID facilities in accordance with the maintenance requirements set forth in the most current edition of the LID Technical Guidance Manual for Puget Sound as needed or as specified in said manual and in city standards, maintenance specifications, and any recorded maintenance agreements.

(3) If an approved LID facility required to be maintained by a private property owner fails to perform as designed due to lack of maintenance, the city has the authority to perform the necessary maintenance, and to recoup the costs incurred from the property owner directly or by liening the property, and to revoke any surface water fee discounts given for the LID facility. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2694 § 4, 2007).

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.

(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.

(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.

(4) As a condition of approval of storm water facilities, property owners 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. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 4, 1999).

14.17.080 Enforcement.

Enforcement of the provisions of this chapter shall be as set forth in MMC Title 4. (Ord. 2816 § 1, 2010).

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) Except as specified by covenant or other instrument recorded on the title of adjacent property, storm water facilities located in city of Marysville rights-of-way shall be maintained by the city and are exempted from 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. 2816 § 1 (Exh. A), 2010; Ord. 2694 § 4, 2007; 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 by a 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 4, 1999).

Chapter 14.18

REGIONAL STORM WATER DRAINAGE

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.
14.18.110 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 22E.030 MMC), and RCW 82.02.020. (Ord. 2857 § 4, 2011; Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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 stormwater 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. (Ord. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 5, 1999).

14.18.070 Reimbursement rights.

A party who constructs regional drainage facilities required by an adopted stormwater 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 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; 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. 2816 § 1 (Exh. A), 2010; Ord. 2245 § 5, 1999).

14.18.110 Marysville area regional stormwater ponds and conveyance systems.

In addition to any other requirements of the Marysville Municipal Code, and in particular Chapter 14.16 MMC and this chapter, the following policies, procedures and priorities are hereby established for connection to and use of all Marysville area regional stormwater ponds and conveyance systems which are now or hereafter constructed by the city of Marysville:

(1) Regional stormwater 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 stormwater 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 stormwater 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 stormwater 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 stormwater 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 stormwater facility following the effective date of the ordinance codified in this section. Said application shall describe the property to be served by the regional stormwater 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 stormwater 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 stormwater drainage facility shall be forfeited. The city may grant a time extension of up to 120 days for a building permit if substantial progress has been made by the applicant to complete design and construction plans to receive permit approval. (Ord. 2816 § 1 (Exh. A), 2010; Ord. 2552 § 1, 2004).

Chapter 14.19

SURFACE WATER UTILITY

Sections:

14.19.005 Intent.
14.19.010 Establishment of surface water utility.
14.19.015 Combination of utilities.
14.19.020 Authority.
14.19.025 Applicability.
14.19.030 Definitions.
14.19.040 Surface water utility fund.
14.19.050 Surface water utility rates.
14.19.060 Rate review and adjustment.
14.19.070 Billing, collection, interest, sewerage lien.
14.19.080 Reductions and appeals.
14.19.090 Liability.

14.19.005 Intent.

It is the intent and purpose of this chapter:

(1) To establish a surface water utility for Marysville to be administered by the surface water division of public works;

(2) To establish and define surface water utility rates;

(3) To provide a comprehensive approach to managing surface water in order to respect and preserve the city's streams, lakes and other water bodies; protect water quality; control, accommodate and discharge storm runoff; provide for groundwater recharge; control sediment; stabilize erosion; establish monitoring capabilities; and rehabilitate stream and drainage corridors for hydraulics, aesthetics, and fisheries benefits. (Ord. 2654 § 3, 2006).

14.19.010 Establishment of surface water utility.

There is hereby 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 stormwater control facilities for the purpose of preventing and solving drainage problems and improving the quality of surface water. (Ord. 2654 § 3, 2006; 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. 2654 § 3, 2006; Ord. 2509 § 1, 2004).

14.19.020 Authority.

(1) Pursuant to RCW 35.92.020, the city of Marysville is authorized to provide storm and surface water management services within its city limits for the benefit of the residents.

(2) Whenever necessary to examine the property characteristics of a particular parcel for the determination of a surface water utility rate, the director may enter any property or portion thereof at reasonable times in compliance with the following procedures:

(a) If such property or portion thereof is occupied, the director shall present identification credentials, state the reason for entry and request entry.

(b) If such property or portion thereof is unoccupied, the director shall first make a reasonable effort to locate the owner or other persons having charge or control of the property or portion thereof and request entry.

(c) Unless entry is consented to by the owner or person in control of any property or portion thereof, the director, prior to entry, shall obtain a search warrant as authorized by the laws of the state of Washington. (Ord. 2654 § 3, 2006; Ord. 2245 § 6, 1999).

14.19.025 Applicability.

The requirements of this chapter shall apply to all properties located within the city of Marysville city limits. (Ord. 2654 § 3, 2006).

14.19.030 Definitions.

The following words, when used herein, shall have the following meanings unless the context clearly indicates otherwise:

(1) "City and county right-of-way" means any strip or parcel of land dedicated to the city or county for public uses including street, mass transit, bicycle and pedestrian uses as well as emergency access, utility, drainage, vegetation management, view corridor or other necessary public uses on a portion of which a street is built.

(2) "Director" means the director the Marysville department of public works or his or her designee.

(3) "Equivalent residential unit (ERU)" shall mean a unit of measurement in the amount of 3,200 square feet of impervious area on a parcel, which is estimated to contribute an amount of runoff to the city's stormwater drainage system, which is approximately equal to the runoff created by an average single-family residential unit, and which is used to calculate the surface water utility fee established in this chapter.

(4) "Impervious surface" means a hard surface area that prevents or retards the entry of water into the soil mantle as under natural conditions prior to development and as a result causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered surface water management facilities shall not be considered as impervious surfaces.

(5) "Low impact development" means a surface water management strategy that emphasizes conservation and the use of existing natural site features integrated with distributed small-scale surface water controls to more closely mimic natural hydrologic patterns in residential, commercial and industrial settings.

(6) "Nonresidential" means all parcels which are not included within the residential category, including, but not limited to, commercial, multifamily, condominiums and duplexes.

(7) "Parcel" means any area of land within the city of Marysville that is deemed a distinct property as identified by the Snohomish County assessor's office, whether or not the parcel is considered taxable.

(8) "Rainwater harvesting system" means a system for storing, collecting, and reusing rainwater from a rooftop, installed at a commercial-use building, that has been designed and constructed in accordance with the Washington State Building Code Council's Permissive Rainwater Harvesting System Guidelines for Nonresidential Occupancies (2002 or as amended), has a storage volume of at least 10 percent of the mean annual runoff volume generated from the contributing roof area, and for which design and construction has been approved by the director.

(9) "Residential" means a single-family residential parcel which has been developed and constructed to contain one dwelling unit and continues to be used solely for each purpose.

(10) "State highway right-of-way" means the right-of-way of a state limited-access highway inside or outside a city or town.

(11) "Surface water management facility" means any facility, improvement, development, property or interest therein, made, constructed or acquired for the purpose of controlling or protecting life or property from storm, waste, flood or surplus waters, or for the purpose of protecting water quality. Such facilities shall include, but not be limited to, the improvements and authority described in Chapter 35.92 RCW.

(12) "Surface water management services" means the services provided by the department of public works to plan, design, establish, acquire, develop, construct, maintain and improve surface water management facilities within city limits for the benefit of the residents.

(13) "Surface water utility rate" means the dollar amount charged per parcel, as set forth in this chapter, based upon the amount of impervious surface coverage for the accommodation of storm and surface water runoff and other surface water management services. (Ord. 2654 § 3, 2006; Ord. 2245 § 6, 1999).

14.19.040 Surface water utility fund.

All service charges collected by the city shall be deposited in the surface water utility fund, as established in Chapter 3.20 MMC. (Ord. 2654 § 3, 2006; Ord. 2245 § 6, 1999).

14.19.050 Surface water utility rates.

Surface water utility rates shall be based on a commonly accepted rate unit for surface water utilities, the equivalent residential unit (ERU). The ERU is used to relate a base rate fee charged to a single-family residential parcel to that which is charged to a nonresidential parcel. The ERU is determined by using the current best available method, which may include analyzing digital photographs, utilizing satellite imagery, performing field checks for verification purposes of a representative sample of single-family residences within the city limits and/or utilizing civil design and construction plans or record drawings. Using this methodology, the director shall determine the amount of impervious area on each nonresidential parcel. The city's standard ERU amount is 3,200 square feet of impervious surface area. The specific ERU calculation for each parcel will be rounded to the nearest one-hundredth, will be established for each such parcel as the impervious surface information becomes available for such parcel, and will be calculated in accordance with the following table:

Effective January 1, 2015:

Customer Class	Rate Calculation (1 ERU = 3,200 sq. ft.)	2015 Monthly Rate
Residential	1 ERU	$11.04
Nonresidential	(sq. ft. of impervious surface) (1 ERU)	$11.04

Effective January 1, 2016:

Customer Class	Rate Calculation (1 ERU = 3,200 sq. ft.)	2016 Monthly Rate
Residential	1 ERU	$11.26
Nonresidential	(sq. ft. of impervious surface) (1 ERU)	$11.26

(Ord. 2975 § 3, 2014; Ord. 2948 § 3, 2013; Ord. 2918 § 3, 2013; Ord. 2916 § 3, 2012; Ord. 2881 § 3 (App. A), 2011; Ord. 2836 § 3, 2010; Ord. 2815 § 3, 2010; Ord. 2758 § 3, 2008; Ord. 2654 § 3, 2006; Ord. 2493 § 1, 2003; Ord. 2486 § 1, 2003).

14.19.060 Rate review and adjustment.

Surface water utility rates will be reviewed and adjusted pursuant to MMC 14.07.075. (Ord. 2654 § 3, 2006).

14.19.070 Billing, collection, interest, sewerage lien.

Surface water utility rates for each parcel served by city water will be collected pursuant to Chapter 14.05 MMC.

Where a parcel is not served by city water, the city shall have a lien for delinquent and unpaid rates, penalties, and interest. Said lien shall be superior to all other liens except the lien for general taxes and local and special assessments. In accordance with the provisions of RCW 35.67.215, said lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor. Unpaid rates shall bear interest at eight percent per annum computed on a monthly basis. Said lien shall be foreclosed in

accordance with the provisions for a sewerage lien all as provided by Chapter 35.67 RCW. (Ord. 2726 § 1, 2007; Ord. 2654 § 3, 2006).

14.19.080 Reductions and appeals.

(1) Reductions. Any surface water utility customer making a timely payment of the city's total utilities bill may apply to the department of public works surface water division for a reduction in their rate. All reductions are applicable from the date the city approves the reduction and are not retroactive. Reductions shall only be allowed pursuant to the criteria set forth in subsections (1)(a) through (e) of this section. The director shall make a written decision on a written request for a reduction within 30 days after receipt of the information, except when additional information is needed, in which case the decision shall be made within 90 days after receipt of the request. The applicant shall be notified in writing of the director's decision. The burden of proof is on the customer to provide the appropriate documentation to request the utility reduction. If at any time the reduction may not be applicable, the reduction may be reevaluated and removed by the director.

(a) Senior Citizen Low-Income and/or Disabled Low-Income. Senior citizen low-income and/or disabled low-income customers may receive a rate reduction pursuant to Chapter 3.63 MMC.

(b) Public Education Institutions. Publicly funded primary and secondary educational institutions that educate and inform their students about the importance of our surface and ground water resources may be eligible for a reduction in their storm and surface water utility rates in an amount of up to 100 percent. The goal is to reach all students within a school with this information at least once during their time at any one school. The rationale behind this credit is that the information provided by the school will translate into appreciation and stewardship of water resources and thereby reduce negative impacts on local streams, ponds and lakes that can result from uninformed citizens. The curriculum requirements shall be set forth in a contract provided by the education institution and shall include, at a minimum, information on the cause and effects of storm water pollution. The educational institution is responsible for providing all documentation that demonstrates the environmental education curriculum taught is above and beyond state requirements. In order to qualify for the reduction, the educational institution must submit a curriculum plan to the city council, which shall determine the amount of the reduction based on the scope, cost, and anticipated effectiveness of the plan. The reduction will be applicable for five years but may be extended by the city council based on submittal of an updated curriculum plan and documentation of the effectiveness of the preceding plan.

(c) State Highway. State highways shall be eligible for a reduction in the surface water utility rate pursuant to RCW 90.03.525.

(d) Rainwater Harvesting System. Pursuant to RCW 35.92.020(3), the surface water utility rate shall be reduced by a minimum of 10 percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The director shall consider rate reductions in excess of 10 percent dependent upon the amount of rainwater harvested divided by the mean annual runoff volume generated by the total impervious surface area at the parcel.

(e) City-Owned Property. Property that is owned by the city of Marysville as identified by the Snohomish County assessor's office shall be eligible for a 100 percent reduction in the surface water utility rate.

(2) Appeals. Any surface water utility customer making a timely payment of the city's total utilities bill who considers the city's surface water utility rate charge applied to their parcel to be inaccurate or who otherwise disagrees with the utility rate determination may request an appeals form and apply to the director for a rate adjustment. The appeal shall be filed with the director no later than 20 days after initial billing. The burden of proof shall be on the applicant to show that any adjustment in their surface water rate should be granted. The director will review the case file and determine whether an adjustment to the charge is necessary to provide for reasonable and accurate application of the utility fees. The director shall also make a written decision on a request for rate adjustment within 30 days after receipt of the information, except when additional information is needed, in which case the decision shall be made within 90 days after receipt of the request. The applicant shall be notified in writing of the director's decision. (Ord. 2918 § 4, 2013; Ord. 2706 § 1, 2007; Ord. 2654 § 3, 2006).

14.19.090 Liability.

Administration of this chapter shall not be construed to create the basis for any liability on the part of the city, its appointed and elected officials and employees while working within the scope of

their duties for any action or inaction thereof authorized or done in connection with the implementation of this chapter. (Ord. 2654 § 3, 2006).

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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 14.21

ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)

Sections:

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14.21.020 Applicability.
14.21.030 Definitions.
14.21.040 Prohibited discharges.
14.21.050 Allowable discharges.
14.21.060 Conditional discharges.
14.21.070 Prohibition of illicit connections.
14.21.080 Access to premises.
14.21.090 Requirements to prevent, control, and reduce storm water pollutants by the use of best management practices (BMPs).
14.21.110 Watercourse protection.
14.21.120 Notification of spills.
14.21.130 Suspension of MS4 access.
14.21.140 Enforcement.
14.21.150 Compensatory action.
14.21.160 Severability.
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14.21.010 Purpose/objectives.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Marysville through the regulation of non-storm water discharges to the city's storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this chapter are:

(1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user;

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.020 Applicability.

This chapter shall apply to all water entering the municipal separate storm sewer system (MS4) from any developed and undeveloped lands unless explicitly exempted by the city. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.030 Definitions.

(1) "AKART" means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.

(2) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(3) "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

(4) "Director of public works" or "director" means the director of the public works department or his/her designee.

(5) "Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

(6) "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(7) "Hyperchlorinated" means water that contains more than 10 mg/liter chlorine.

(8) "Illicit discharge" means any direct or indirect non-storm water discharge to the city's storm drain system, except as expressly exempted by this chapter.

(9) "Illicit connection" means any manmade conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

(10) "Municipal separate storm sewer system (MS4)" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, which are:

(a) Owned or operated by the city of Marysville;

(b) Designed or used for collecting or conveying storm water;

(c) Not part of a publicly owned treatment works (POTW) ("POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned); and

(d) Not a combined sewer ("combined sewer" means a system that collects sanitary sewage and storm water in a single sewer system).

(11) "National Pollutant Discharge Elimination System (NPDES) storm water discharge permit" means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 U.S.C. Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(12) "Non-storm water discharge" means any discharge to the storm drain system that is not composed entirely of storm water.

(13) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner's agent.

(14) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(15) "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(16) "Storm or storm water drainage system" means publicly owned facilities, including the city's municipal separate storm sewer system, by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(17) "Storm water" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

(18) "Storm water pollution prevention plan (SWPPP)" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.040 Prohibited discharges.

(1) No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system any materials other than storm water.

(2) Examples of prohibited contaminants include but are not limited to the following:

(a) Trash or debris.

(b) Construction materials.

(c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.

(d) Antifreeze and other automotive products.

(e) Metals in either particulate or dissolved form.

(f) Flammable or explosive materials.

(g) Radioactive material.

(h) Batteries.

(i) Acids, alkalis, or bases.

(j) Paints, stains, resins, lacquers, or varnishes.

(k) Degreasers and/or solvents.

(l) Drain cleaners.

(m) Pesticides, herbicides, or fertilizers.

(n) Steam cleaning wastes.

(o) Soaps, detergents, or ammonia.

(p) Swimming pool cleaning wastewater or filter backwash.

(q) Chlorine, bromine, or other disinfectants.

(r) Heated water.

(s) Domestic animal wastes.

(t) Sewage.

(u) Recreational vehicle waste.

(v) Animal carcasses.

(w) Food wastes.

(x) Bark and other fibrous materials.

(y) Lawn clippings, leaves, or branches.

(z) Silt, sediment, concrete, cement or gravel.

(aa) Dyes. Unless approved by the city.

(bb) Wash water.

(cc) Chemicals not normally found in uncontaminated water.

(dd) Any other process-associated discharge except as otherwise allowed in this section.

(ee) Any hazardous material or waste not listed above. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.050 Allowable discharges.

The following types of discharges shall not be considered illegal discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or ground water:

(1) Diverted stream flows.

(2) Rising ground waters.

(3) Uncontaminated ground water infiltration – as defined in 40 CFR 35.2005(20).

(4) Uncontaminated pumped ground water.

(5) Foundation drains.

(6) Air conditioning condensation.

(7) Irrigation water from agricultural sources that is commingled with urban storm water.

(8) Springs.

(9) Water from crawl space pumps.

(10) Footing drains.

(11) Flows from riparian habitats and wetlands.

(12) Discharges from emergency fire fighting activities. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.060 Conditional discharges.

The following types of discharges shall not be considered illegal discharges for the purposes of this chapter, if they meet the stated conditions, or unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or ground water:

(1) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. These planned discharges shall be de-chlorinated to a concentration of 0.1 parts per million or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent resuspension of sediments in the storm water system.

(2) Lawn watering and other irrigation runoff. These discharges shall be minimized as set forth in Chapter 14.09 MMC.

(3) De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 parts per million or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent resuspension of sediments in the storm water system.

(4) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. These discharges shall be permitted, if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

(5) Non-storm water discharges covered by another NPDES permit. These discharges shall be in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.

(6) Other non-storm water discharges. These discharges shall be in compliance with the requirements of a storm water pollution prevention plan (SWPPP) reviewed and approved by the city, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.070 Prohibition of illicit connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4 or allows such a connection to continue. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.080 Access to premises.

(1) As a condition of approval of storm water facilities pursuant to this title, property owners shall be deemed to have permitted the city to enter and inspect premises subject to regulation under this title, as set forth in this section and as often as may be reasonably necessary to determine compliance with this title. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.

(2) Premises owners, occupiers and their agents shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of this title and the performance of any additional duties as defined by state and federal law.

(3) The city shall have the right to set up on any premises such devices as are necessary in the opinion of the director to conduct monitoring and/or sampling of the storm water discharge.

(4) The city has the right to require premises owners, occupiers or their agents to install monitoring equipment as necessary. The monitoring equipment shall be maintained at all times in a safe and proper operating condition by the premises owners, occupiers, or their agents at their own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the premises owner, occupiers or their agents at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the premises owner or occupier.

(6) Unreasonable delays in allowing the city access to a premises is a violation of this chapter. A person who is the owner or operator of a premises commits an offense if the person denies the city reasonable access to the premises for the purpose of conducting any activity authorized or required by this chapter. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.090 Requirements to prevent, control, and reduce storm water pollutants by the use of best management practices (BMPs).

The Stormwater Manual sets forth approved best management practices (BMPs). The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.110 Watercourse protection.

Every person owning or leasing property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.120 Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the state flowing through the city, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the public works department in person or by phone or facsimile no later than the next business day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.130 Suspension of MS4 access.

(1) Suspension Due to Illicit Discharges in Emergency Situations. The director may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person, when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the

director may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

(2) Suspension Due to the Detection of Illicit Discharge. Any persons discharging to the MS4 in violation of this chapter may have their water service, sanitary sewer service and/or MS4 access terminated, if such termination would abate or reduce an illicit discharge. The director will notify a violator of the proposed termination of its water service, sanitary sewer service, and/or MS4 access. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.140 Enforcement.

Enforcement of the provisions of this chapter shall be as set forth in MMC Title 4. Included in the city's abatement costs that may be recovered under the provisions of MMC Title 4 are the costs of abatement, sampling, or monitoring costs incurred if a violator fails to comply with the provisions of this chapter. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.150 Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by MMC Title 4 and this chapter, the director may impose upon a violator alternative compensatory actions, including, but not limited to, such remedial actions as storm drain stenciling, attendance at compliance workshops, and creek cleanup. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.160 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. (Ord. 2782 § 1 (Exh. A), 2009).

14.21.170 Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards. Compliance with the standards established under this chapter does not relieve persons from any responsibility or obligation imposed pursuant to any other local, state, or federal regulation. (Ord. 2782 § 1 (Exh. A), 2009).

Chapter 14.32

UTILITY SERVICE PLANNING AREA

Sections:

14.32.010 Utility service area established – Purposes.
14.32.015 Water service area.
14.32.020 Utility service limitations.
14.32.030 USA plan.
14.32.035 Annexation required.
14.32.050 Administrative procedure.

14.32.010 Utility service area established – Purposes.

(1) There is established a utility service area (USA) for the future planning of sanitary sewer and water, the boundaries of which for sewer shall be the city's urban growth area (UGA) as it now exists or is hereinafter amended. The boundaries of the USA for purposes of water shall be as provided in MMC 14.32.015.

(2) The purposes of the USA shall be to allow the city to establish long-range plans for the growth and control of its sanitary sewer and water 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 for areas which are anticipated to annex into the city in the future. The 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 system. All utility connections 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 title and this chapter. The 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. The USA is nonexclusive, and does not affect the right of any other utility district or purveyor to provide services therein. (Ord. 2835 § 1, 2010; Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 1, 1982).

14.32.015 Water service area.

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). To the greatest extent practicable, the water service area shall be consistent with the city's UGA. Adjustments to this boundary shall be completed as defined in the "Agreement for Establishing Water Utility Service Area Boundaries" and applicable state law. Establishment of such boundary shall not be construed as a commitment, either express or implied, to provide water service to any property therein. (Ord. 2835 § 1, 2010; Ord. 2606 § 1, 2005).

14.32.020 Utility service limitations.

Except as otherwise provided herein, the city shall not contract to provide or serve water or sewer utilities to any properties outside of the adopted service boundaries for sewer and water as set forth in MMC 14.32.010 and 14.32.015. No properties within the established USA service boundaries shall be provided with water or sewer service until they are annexed and become part of the city pursuant to MMC 14.32.035; provided however, the city may upon application for a variance as set forth in MMC 14.32.050(4) approve utility service outside the established service boundaries upon a showing of a bona fide public health emergency as defined herein. (Ord. 2835 § 1, 2010; Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 2, 1982).

14.32.030 USA plan.

The city shall adopt a Growth Management Act (GMA) comprehensive plan as required by the Growth Management Act and other applicable statutes and laws. Such plan, including the city's comprehensive water and sewer plan subelements, shall be the city's USA plan. The plan may be prepared as a whole or in successive parts. It shall include a map designating land use classifications and density limitations consistent with the city's land use comprehensive plan for properties within the 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 the USA, and to ensure that the city's utility system retains adequate capacity to serve all properties within the existing and future city limits and to meet existing contractual obligations. 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 appropriate government agencies as required by law. (Ord. 2835 § 1, 2010; Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1242 § 3, 1982).

14.32.035 Annexation required.

Any property within the city of Marysville urban growth area (UGA) or utility service area (USA), as they now exist or as they are hereafter amended, shall, as a condition of receiving city water or sewer service, be required to first annex to the city of Marysville. No letter of water or sewer availability shall be issued by the city for development projects accepted or approved by Snohomish County until said property is first annexed to the city of Marysville.

(1) Provided, annexation shall not be a precondition to service for those already under contract with the city for provision of utilities or through a utility local improvement district.

(2) Provided further, annexation shall not be a precondition of service where there is a showing of a bona fide public health emergency as defined herein.

(3) Provided further, the annexation requirement of this section 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. (Ord. 2835 § 1, 2010).

14.32.050 Administrative procedure.

(1) Applications for Utility Connections. Owners of property within the USA but outside the city limits 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 14.07.005 and payment in full of all assessments required by the city code and, where applicable, by a fully executed annexation petition. No letter of utility availability shall be issued until such time as the subject property has been annexed to the city. If annexation does not occur, all application fees and assessments shall be refunded.

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. The decision of the city engineer, or his designee, concerning the recommendation to grant or deny utility connection following annexation or to grant or deny a letter of

water or sewer availability shall be in writing and shall be mailed to the applicant at the address stated on the application form.

(2) Application Granted – Duration. Following annexation, if the connection is granted, the applicant shall have a period of 12 months to comply with all city utility codes and requirements and complete the utility connections to the property. If the same are not so completed, the applicant's right to a connection 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. Following annexation, 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 22G.010.530. Appeals must be accompanied by the fee required in MMC 14.07.005.

(4) Variances. The city land use hearing examiner shall have authority to grant variances from any and all provisions 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 such as a bona fide public health emergency 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;

(e) That the granting of such variance is consistent with the Growth Management Act, Chapter 36.70A RCW;

(f) For purposes of this chapter the term "bona fide public health emergency" shall mean that service is necessary and that all of the following are present:

(i) The impact on public health potentially impacts the general public rather than solely the property owner making application;

(ii) The hardship is not the result of the applicant's own action;

(iii) The hardship is not merely financial or pecuniary;

(iv) The city's NPDES permit will not be affected by the extension (if applicable);

(v) The extension is consistent with the goals of the city's water and sewer comprehensive plans and all other applicable law, including, but not limited to, the Public Water System Coordination Act (Chapter 70.116 RCW), the Growth Management Act, and the State Environmental Policy Act;

(vi) The city has adequate capacity and adequate infrastructure available to provide the required service, or the applicant voluntarily agrees to provide the necessary infrastructure upgrades to allow service consistent with city standards.

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 com-

pleted 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. 2857 § 5, 2011; Ord. 2835 § 1, 2010; Ord. 2606 § 1, 2005; Ord. 2375 § 7, 2001; Ord. 1431, 1985; Ord. 1267, 1982; Ord. 1242 § 6, 1982. Formerly 14.32.060).

Title 15

(Reserved)

Title 16

BUILDING[1]

Chapters:

16.04 Building Code
16.08 Plumbing Code
16.10 Washington State Energy Code
16.12 National Electrical Code and Washington Cities Electrical Code
16.20 Dangerous Buildings
16.28 Mechanical Code
16.36 Building Specifications for the Handicapped

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

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.
16.04.045 Sections 109 and 109.2 amended – IBC and IRC Fee Table 1-A and Table A-J-A adopted by reference.
16.04.050 Section 109.2 amended – Plan review fees and refunds.
16.04.060 Section 903.2.1 amended – Sprinkler systems – Group A Occupancies.
16.04.070 Section 903.2.3 amended – Fire-extinguishing systems – Group E Occupancies.
16.04.080 Section 903.2.4 amended – Sprinkler systems – Group F Occupancies.
16.04.090 Section 903.2.5 amended – Fire-extinguishing systems – Group H Occupancies.
16.04.100 Section 903.2.7 amended – Sprinkler systems – Group M and B Occupancies.
16.04.110 Section 903.2.8 amended – Sprinkler systems – Group R Occupancies.
16.04.120 Section 903.2.9 added – Sprinkler systems – Group S Occupancies.
16.04.130 Section 903.2.14 added – Fire barriers.
16.04.140 Section 1021 amended – Number of exits.
16.04.160 Requirements for moved buildings.
16.04.170 Requirements for solar photovoltaic power systems.

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," 2009 Edition, published by the International Code Council, except for the provisions in subsections (3), (4) and (5) 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 Sections 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 Section 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) Section 105.5 of the International Building Code is not adopted and the following is substituted:

> Expiration (IBC 105.5). Every permit issued by the building official under the provisions of the code shall expire by limitation and become null and void two (2) year(s) from the date of issue. Issued permits may be extended for one year periods subject to the following conditions:
>
> 1. An application for permit extension together with the applicable fee is submitted to the community development department at least seven (7), but no more than sixty (60), calendar days prior to the date the original permit becomes null and void. Once the permit extension application is submitted, work may continue past the expiration date of the original permit, provided that the extension application is not denied. If the extension application is denied, all work must stop until a valid permit is obtained.
>
> 2. If construction of a building or structure has not substantially commenced, as determined by the building official, within two years from the date of the first issued permit and the building and the structure is no longer authorized by the zoning code or other applicable law, then the permit shall not be extended.

3. An applicant may request a total of two permit extensions, provided there are no substantial changes in the approved plans and specifications.

4. The building official may extend a building permit beyond the second extension only to allow completion of a building, structure or mechanical system, which is authorized by the original permit and is substantially constructed. If substantial work, as determined by the building official, has not commenced on a building and/or structure authorized in the original permit, then a new permit will be required for construction to proceed.

5. The building official may revise a permit at the permittee's request, but such a revision does not constitute a renewal or otherwise extend the life of the permit.

EXCEPTION: Until December 31, 2011, a third extension may be granted by the building official for building permits where substantial work has not commenced, if:

1. The applicant provides a sworn and notarized declaration that substantial work has not commenced as a result of adverse market conditions and inability to secure financing to commence construction;

2. The applicant pays applicable permit extension fees; and

3. There are no substantial changes in the approved plans or specifications.

(5) Work Exempt from Permits. For purposes of Marysville Municipal Code, both IBC and IRC Sections 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 structures 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 in 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 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, which 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. 2876 § 1, 2011; Ord. 2784 § 2, 2009; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; 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. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 852 § 2, 1975).

16.04.030 Appendices adopted.

Appendices B, I and J, except Section J101.2 to the International Building Code, 2009 Edition, and only Appendices A, B, C, G, H, J and K to the International Residential Code, 2009 Edition, are adopted, incorporated by this reference, and made a part of this chapter as if fully set forth in this chapter. (Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2658 § 1, 2006; 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. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; 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 including townhomes, 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. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2100 § 1, 1996).

16.04.045 Sections 109 and 109.2 amended – IBC and IRC Fee Table 1-A and Table A-J-A adopted by reference.

The schedules 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.

TABLE 1-A INTERNATIONAL BUILDING AND RESIDENTIAL CODES

Table 1-A – Building Permit Fees

The fees for building permits are per Table No. 1-A of the 2009 IBC/IRC, as adopted by the city council, and are based on the valuation of the work being performed.

Total Valuation	Fee
$1.00 to $500.00	$50.00
$501.00 to $2,000.00	$50.00 for the first $500.00 plus $3.05 for each additional $100.00, or fraction thereof, to and including $2,000.00
$2,001.00 to $25,000.00	$69.25 for the first $2,000.00 plus $14.00 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00	$391.25 for the first $25,000.00 plus $10.10 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$643.75 for the first $50,000.00 plus $7.00 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$993.75 for the first $100,000.00 plus $5.60 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$3,233.75 for the first $500,000.00 plus $4.75 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,000.00 and up	$5,680.75 for the first $1,000,000.00 plus $3.65 for each additional $1,000.00, or fraction thereof

1. A. Plan review fees (paid at the time of submitting plans) equal to 65% of the building permit fees.
   B. Reinspection fees for called inspections when access is not provided or work is not ready: $75.00 under IBC/IRC Sections 109.
   C. Revision fees for additional plan review or inspections when the work authorized by permit changes: $75.00 per Table 1-A under IBC/IRC Sections 109 (minimum charge – one hour).
   D. Inspections for which no fee is specifically indicated (minimum charge – one hour): $75.00 per hour.*
2. Building valuation shall be based on the building valuation data sheet contained within each year's May issue of the "Building Safety Journal" magazine published by the International Code Council (ICC) including "The Cost Modifier of 1.09," on file with the city building official.
3. Decks, carports (open on three sides), ramps, unheated sunrooms, covered porches and stairs are assessed at $15.00 per square foot per submittal.
4. Unfinished basements (no heat, insulation and/or sheetrock) are assessed at $40.00 per square foot.
5. Single-wide mobile homes $200.00, double-wide $300.00 for permit base fee.
6. State Building Code Council surcharge fee: $4.50 per building permit, plus $2.00 each dwelling unit.
7. For miscellaneous applications, plan reviews and permits including expired applications and permits for which no fee is specified: Fee will be at a rate of $75.00 per hour with a minimum fee of one hour at $75.00.*

*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

TABLE A-J-A INTERNATIONAL BUILDING CODE 2009

GRADING PLAN REVIEW FEES

50 cubic yards (38.2 m^3) or less, when located in a designated critical area	$100.00
51 to 100 cubic yards (40 m^3 to 76.5 m^3)	$120.00
101 to 1,000 cubic yards (77.2 m^3 to 764.6 m^3)	$160.00
1,001 to 10,000 cubic yards (765.3 m^3 to 7,645.5 m^3)	$200.00
10,001 to 100,000 cubic yards (7,646.3 m^3 to 76,455 m^3) – $300.00 for the first 10,000 cubic yards (7,645.5 m^3) plus $40.00 for each additional 10,000 cubic yards (7,645.5 m^3) or fraction thereof.	
100,001 to 200,000 cubic yards (76,456 m^3 to 152,911 m^3) – $300.00 for the first 100,000 cubic yards (76,455 m^3), plus $60.00 for each additional 10,000 cubic yards (7,645.5 m^3) or fraction thereof.	
200,001 cubic yards (152,912 m^3) or more – $500.00 for the first 200,000 cubic yards (152,911 m^3), plus $100.00 for each additional 10,000 cubic yards (7,645.5 m^3) or fraction thereof.	
Other Fees: 1. Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour): $75.00 per hour. 2. Clearing plan review as specified under MMC 22D.050.020: $75.00 per hour.*	

*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

For miscellaneous applications, plan reviews and permits including expired applications and permits for which no fee is specified: Fee will be at a rate of $75.00 per hour with a minimum fee of one hour at $75.00.*

GRADING PERMIT FEES

Base permit fee	$100.00
50 cubic yards (38.2 m^3) or less, when located in a designated critical area	$120.00
51 to 100 cubic yards (40 m^3 to 76.5 m^3)	$160.00
101 to 1,000 cubic yards (77.2 m^3 to 764.6 m^3) – $200.00 for the first 100 cubic yards (76.5 m^3) plus $20.00 for each additional 100 cubic yards (76.5 m^3) or fraction thereof.	
1,001 to 10,000 cubic yards (765.3 m^3 to 7,645.5 m^3) – $300.00 for the first 1,000 cubic yards (764.6 m^3), plus $40.00 for each additional 1,000 cubic yards (764.6 m^3) or fraction thereof.	
10,001 to 100,000 cubic yards (7,646.3 m^3 to 76,455 m^3) – $500.00 for the first 10,000 cubic yards (7,645.5 m^3), plus $60.00 for each additional 10,000 cubic yards (7,645.5 m^3) or fraction thereof.	
100,001 cubic yards (76,456 m^3) or more – $500.00 for the first 100,000 cubic yards (76,455 m^3), plus $80.00 for each additional 10,000 cubic yards (7,645.5 m^3) or fraction thereof.	
Other Inspections and Fees:	
1. Inspections outside of normal business hours (minimum charge – one hour)	$75.00 per hour*
2. Reinspection fees assessed under provisions of IBC Section 108.8	$75.00 per hour*
3. Inspections for which no fee is specifically indicated (minimum charge – one hour)	$75.00 per hour*
4. Clearing permit fees as specified under MMC 22D.050.020	$75.00 per hour*

GRADING PERMIT FEES (Continued)

*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

For miscellaneous applications, plan reviews and permits including expired applications and permits for which no fee is specified: Fee will be at a rate of $75.00 per hour with a minimum fee of one hour at $75.00.*

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004).

16.04.050 Section 109.2 amended – Plan review fees and refunds.

Section 109.2 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 109, 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 2009 IBC-IRC Table 1-A Building Permit Fees. A plan may be established as a "basic" plan, to be used multiple times within a subdivision. "Basic" plan review fees are 35 percent (35%) of the building permit fee for each subsequent permit application utilizing an established plan. No structural modifications or increases in square footage are allowed on a basic plan. If additional engineering review is required due to lot conditions, a new plan must be submitted for review.

2. Sections 109 and 109.6 amended – Refunds. The building official may authorize refunding of not more than 70 percent (70%) 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. 2876 § 1, 2011; Ord. 2793 § 1, 2009; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; 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 Occupancies, other than those rooms used by the occupants for the consumption of alcoholic beverages, that have 8,000 square feet or more of floor area.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 10, 2001).

16.04.070 Section 903.2.3 amended – Fire-extinguishing systems – Group E 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 General. An automatic fire-extinguishing system shall be installed in all newly constructed buildings classified as Group E Occupancy.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 11, 2001).

16.04.080 Section 903.2.4 amended – Sprinkler systems – Group F 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 903.2.4.1 Group F occupancies. An automatic fire sprinkler system shall be installed in Group F occupancies over 2,500 square feet in area that use equipment, machinery or appliances that gener-

> ate finely divided combustible waste or that use finely divided combustible materials. All other Group F occupancies that have 8,000 square feet or more of floor area shall be provided with an automatic fire sprinkler system.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 12, 2001).

16.04.090 Section 903.2.5 amended – Fire-extinguishing systems – Group H Occupancies.

Section 903.2.5 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.5 is enacted to be added to the building code reading as follows:

> Section 903.2.5 General. An automatic fire-extinguishing system shall be installed in all Group H Divisions.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 13, 2001).

16.04.100 Section 903.2.7 amended – Sprinkler systems – Group M and B 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 M and B Occupancies. An automatic sprinkler system shall be installed in rooms classed as Group M Occupancies where the floor area is 8,000 square feet or more. The area of mezzanines shall be included in determining the areas where sprinklers are required.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 14, 2001).

16.04.110 Section 903.2.8 amended – Sprinkler systems – Group R Occupancies.

Section 903.2.8 of the International Building Code as enacted by the city and previously amended is hereby repealed and a new Section 903.2.8 is enacted to be added to the building code reading as follows:

> Section 903.2.8 Group R Occupancies. An automatic sprinkler system shall be installed throughout every apartment house three (3) or more stories in height or containing five (5) or more dwelling units, townhomes and every congregate residence three (3) or more stories in height or having an occupant load of five (5) or more, and every hotel three or more stories in height or containing five (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. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 15, 2001).

16.04.120 Section 903.2.9 added – Sprinkler systems – Group S Occupancies.

A new Section 903.2.9 is hereby enacted and added to the International Building Code as previously enacted and amended by the city reading as follows:

> Section 903.2.9 Group S Occupancies. An automatic sprinkler system shall be installed throughout all Group S occupancies that have 8,000 square feet or more of floor area.
>
> Section 903.2.9.1. In all Group S-1 mini-storage occupancies.
>
> Section 903.2.9.2. Repair garages where the use of open flame or welding is conducted with a fire area exceeding 3,000 square feet.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 16, 2001).

16.04.130 Section 903.2.14 added – Fire barriers.

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, fire barriers shall not define separate buildings.

(Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord.

2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 2377 § 17, 2001).

16.04.140 Section 1021 amended – Number of exits.

Section 1021.2 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. 1021.2.
>
> 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 1021 shall remain unamended. (Ord. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; 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. 2876 § 1, 2011; Ord. 2740 § 1, 2008; Ord. 2708 § 1, 2007; Ord. 2523 § 1, 2004; Ord. 1559, 1987).

16.04.170 Requirements for solar photovoltaic power systems.

Solar power systems shall be installed in accordance with MMC 9.04.605, the International Building Code and NFPA 70. Permit fees will be based from project valuation and Table 1-A, Building Permit Fees. (Ord. 2876 § 1, 2011).

Chapter 16.08

PLUMBING CODE

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.

Prior legislation: Ords. 507, 556, and 621.

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, 2009 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. 2876 § 2, 2011; Ord. 2740 § 2, 2008; Ord. 2708 § 2, 2007; 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. 2876 § 2, 2011; Ord. 2740 § 2, 2008; Ord. 2708 § 2, 2007; 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 70 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.

Table 1-A **Uniform Plumbing Code 2009**

UPC Table 1-A – Plumbing Permit Fees

Permit Issuance		
1.	For issuing each permit	$50.00
2.	For issuing each supplemental permit	$30.00
Unit Fee Schedule (in addition to items 1 and 2 above)		
1.	For each plumbing fixture on one trap or a set of fixtures on one trap (including water, drainage piping and backflow protection therefor)	$15.00
2.	For each grinder pump	$150.00
3.	Rainwater systems – per drain (inside building)	$15.00
4.*	Water service connection: water line from meter to house or structure	$50.00
5.	For each private sewage disposal system	Approval required from Health/Snohomish County
6.	For each water heater and/or vent	$15.00
7.	For each gas piping system of one to five outlets	$15.00
8.	For each additional gas piping system outlet, per outlet	$15.00
9.	For each industrial waste pretreatment interceptor including its trap and vent, except kitchen-type grease interceptors functioning as fixture traps	$15.00
10.	For each installation, alteration or repair of water piping and or water treating equipment, each	$15.00

Table 1-A **Uniform Plumbing Code 2009**

UPC Table 1-A – Plumbing Permit Fees (Continued)

11.	For each repair or alteration of drainage or vent piping, each fixture	$15.00
12.	For each lawn sprinkler system on any one meter including backflow protection devices therefor	$15.00
13.	For atmospheric-type vacuum breakers not included in Item 12:	
	to 5	$10.00
	over 5, each	$10.00
14.	For each backflow protective device other than atmospheric-type vacuum breakers:	
	2 inch (51 mm) diameter and smaller	$10.00
	over 2 inch (51 mm) diameter	$10.00
15.	For each graywater system	$15.00
16.	For initial installation and testing for a reclaimed water system	$15.00
17.	For each annual cross-connection testing of a reclaimed water system (excluding initial test)	$15.00
18.	For each medical gas piping system serving one to five inlet(s)/outlet(s) for a specific gas	$25.00
19.	For each additional medical gas inlet(s)/outlet(s)	$25.00
20.	For each fire sprinkler system including $0.50 per head	$50.00
21.	For each industrial waste pretreatment grease interceptor including its trap and vent, and inspections	$30.00

Other Inspections and Fees:

1.	Inspections outside of normal business hours	$75.00
2.	Reinspection fee under Section 103.5.6	$75.00
3.	Inspections for which no fee is specifically indicated	$75.00
4.	Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	$75.00

5. Jurisdiction may issue permit fees from project valuation and/or the hourly cost to cover employee inspection time, whichever is greatest.
6. Typical plan review fees for plumbing work shall be equal to 25% of the total permit fee as set forth in Table 1-A and Section 103.4.
7. For miscellaneous applications, plan reviews and permits including expired applications and permits for which no fee is specified: Fee will be at a rate of $75.00 per hour with a minimum fee of one hour at $75.00 or the total hourly cost to the jurisdiction, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wage and fringe benefits of the employees involved.

*Put on building application for plumbing if new construction or connecting to city sewer and water.

(Ord. 2876 § 2, 2011; Ord. 2740 § 2, 2008; Ord. 2708 § 2, 2007; 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.

Appeals from any ruling made under this chapter may be made to the building code board of appeals. Procedural rules concerning appeals shall be as provided in the building code. (Ord. 2876 § 2, 2011; Ord. 2740 § 2, 2008; Ord. 2708 § 2, 2007; 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. The following appendices A, B, D, I, L of the 2009 Edition of the Uniform Plumbing Code are incorporated by reference and made a part of this chapter.

(Ord. 2876 § 2, 2011; Ord. 2740 § 2, 2008; Ord. 2708 § 2, 2007; 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.

Water conservation performance standards specified in RCW 19.27.170 are now included in the body of the Uniform Plumbing Code. (Ord. 2876 § 2, 2011; Ord. 2740 § 2, 2008; Ord. 2708 § 2, 2007; Ord. 2523 § 2, 2004; Ord. 1807 § 2, 1990).

Chapter 16.10

WASHINGTON STATE ENERGY CODE

Sections:

16.10.030 Washington State Energy Code adopted.

16.10.030 Washington State Energy Code adopted.

Pursuant to RCW 19.27A.020, the Washington State Energy Code (Chapter 51-11 WAC or as amended) is adopted and incorporated into and made a part of this chapter by reference. (Ord. 2876 § 3, 2011; Ord. 1948 § 11, 1993; Ord. 1762 § 2, 1990).

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Chapter 16.12

NATIONAL ELECTRICAL CODE AND WASHINGTON CITIES ELECTRICAL CODE

Sections:

16.12.010 Adoption.
16.12.015 Amendments made in the National Electrical Code and Washington Cities Electrical Code.
16.12.020 Table 1-A adopted – Schedule of fees and refunds.
16.12.030 Amendments – Administrative chapter.
16.12.050 Code amendments – General provisions.
16.12.060 Prohibited cables.
16.12.070 Violations and penalties.
16.12.100 Board of electrical appeals.
16.12.200 Annex 1-2-3.

16.12.010 Adoption.

(1) National Electrical Code (NEC) Adopted. The 2008 National Electrical Code, published by the National Fire Protection Association, 2004 Edition, the Department of Labor and Industries Rules and Regulations for installing electrical wires and equipment and Administrative Rules (Chapter 19.28 RCW), as adopted by the state of Washington, are hereby adopted by reference except such portions as are hereinafter deleted, amended or specified and incorporated herein as fully as if set out at length herein, collectively herein referred to as the "code" unless specifically provided otherwise.

(2) The Washington Cities Electrical Code (WCEC) Dated June 22, 2009, Adopted. The Washington Cities Electrical Code dated June 22, 2009, is adopted by reference except such portions as are hereinafter amended or specified and incorporated herein as fully as if set out at length herein collectively referred to as "Cities Electrical Code" or "WCEC" unless specifically provided otherwise.

(a) Page 1 of the Cities Electrical Code reference to RCW 19.28.010(2) is corrected to RCW 19.28.010(3).

(b) Page 38, Part 3, Article 100, Definitions, of the Cities Electrical Code only pertains to the electrical code and is related to the electrical code enforcement and not to other chapters or sections of the Marysville Muncipal Code.

(3) Code Conflict Resolution. Any conflict between the provisions of the city of Marysville Code, the 2008 NEC and the Cities Electrical Code will be resolved in favor of the most stringent code section. (Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.015 Amendments made in the National Electrical Code and Washington Cities Electrical Code.

(1) Subsequent Amendments. All amendments or supplements to the National Electrical Code (NEC) adopted by the NFPA National Fire Protection Association 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.

(2) Subsequent Amendments. All amendments or supplements to the Washington Cities Electrical Code (WCEC) shall become part of this code in all respects insofar as it is applied and enforced within the jurisdictional boundaries of the city of Marysville. (Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.020 Table 1-A adopted – Schedule of fees and refunds.

The schedule of fees specified in Table 1-A, entitled "Electrical Fees," is hereby adopted.

The building official may authorize refunding of not more than 70 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.

WCEC page 19, Section N, Fees, (5) Refunds, is not adopted.

Table 1-A Electrical Fees
Effective July 1, 2007

Residential (Single-Family or Duplex)

New construction, addition or remodel. Additions and remodels based on size of project.	
Under 1,000 square feet	$100.00
1,001 to 2,000 square feet	$150.00
2,001 to 3,000 square feet	$200.00
3,001 square feet and over	$250.00
Garages and outbuildings (stand-alone projects)	$100.00
Service/panel change or alteration	$75.00
Circuits added/altered without service change	
1 or 2 circuits	$50.00
3 or more circuits	$75.00
Meter/mast repair or alteration	$75.00

Commercial and Multifamily (including fire alarm)

Total valuation (time and materials)	
$250.00 or less	$50.00
$251.00 to $5,000	$50.00 + 3% of cost over $250.00
$5,001 to $50,000	$175.00 + 1.5% of cost over $5,000
$50,001 to $250,000	$925.00 + 0.9% of cost over $50,000
$250,001 to $1,000,000	$3,175 + 0.7% of cost over $250,000
$1,000,001 and above	$10,000 + 0.4% of cost over $1,000,000

Commercial low voltage/power limited permits are issued on the value of each installation
(Use the valuation schedule shown above for fire alarms)
Residential low voltage/power limited permits listed below are $50.00 each:
T-stat, intercom, low voltage wire security systems, multimedia systems, misc. low voltage system requiring permits

Miscellaneous

Temporary service: 0 – 200 amps	$65.00
Temporary service: 201 – 400 amps	$85.00
Temporary service: 401 and more	by valuation
Manufactured/mobile home service (does not include outbuildings)	$75.00
Signs	$50.00
Carnival	$200.00
Inspection of work done without permit: double fee	*
Reinspection fee (not ready, corrections not made)	$75.00*
Plan review fee or inspection not specified elsewhere (half-hour minimum)	$75.00/hr.*

Typical plan review fees for electrical work shall be equal to 25% of the total permit fee set forth in this table*

* Or the total hourly cost to the jurisdiction, whichever is greatest. This cost includes supervision, overhead, hourly wages and fringe benefits of the employees involved.

(Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.030 Amendments – Administrative chapter.

There is added to the administration chapter of the National Electrical Code a new section which shall read as follows (reference WCEC applicable parts of Parts 1, 2 and 3):

1. EXISTING BUILDINGS. Reference – WCEC (page 37-S).

2. MAINTENANCE. Reference WCEC (page 8 – 85.5-C).

3. MOVED BUILDINGS. Reference WCEC (page 10 – 85.9-A).

4. ADMINISTRATIVE AUTHORITY AND ASSISTANTS. Reference WCEC (page 10 – 85.9-A).

5. RIGHT-OF-ENTRY. Reference WCEC (page 28 – 85.19I). The Building Official or his/her authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Building Official or his/her authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official or his/her authorized representative for the purpose of inspection and examination pursuant to this Code.

6. STOP ORDERS. Reference WCEC (page 31 – 85.25-A through F).

7. LIABILITY. Also reference WCEC (page 14 – 85.11-11). The Building Official or any employee charged with the enforcement of this Code, acting in good faith and without malice for the City in the discharge of his/her duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to person or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. Any suit brought against the Building Official or employee, because of such act or omission performed by him/her in the enforcement of any provisions of this Code, shall be defended by the legal department of the City until final termination of the proceedings. This code is one of general application and nothing herein is intended to create liability or cause action running in favor of individual members of the public.

8. UNSAFE CONDITIONS. Reference WCEC (page 31 – 85.23-A through F).

9. VIOLATION. Reference WCEC (page 32 – 85.25).

10. PERMITS AND INSPECTIONS. Reference WCEC (page 14 – 85.13, Permit & Fees, and page 85.15, and page 26 – 85.19, Inspections & Testing).

(a) Permits required: Reference WCEC (page 14 – 85.13, Permit & Fees, and page 85.15, and page 26 – 85.19, Inspections & Testing).

(b) Application: Reference WCEC (page 19 – 85.15).

(c) To Whom Permits May Be Issued: Reference WCEC (page 14 – 85.13, Permit & Fees, and page 85.15, and page 26 – 85.19, Inspections & Testing).

(d) Plans and Specifications: Reference WCEC (page 192 – 85.25).

(e) Plan Checking: Reference WCEC (page 21 – 85.15).

(f) Validity: Reference WCEC (page 18 – 85.13-K).

(g) Suspension or Revocation: Reference WCEC (page 18 – 85.13-M).

(h) Inspections: Reference WCEC (page 26 – 85.19).

11. ELECTRICAL PERMIT FEES. Reference WCEC (page 26 – 85.19). A fee for each electrical permit shall be paid to the Building Official as set forth in Table 1-A, Electrical Fees.

12. VIOLATION CITATION – ORDER. Reference WCEC (page 32 – 85.25).

(Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.050 Code amendments – General provisions.

Reference the WCEC. (Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.060 Prohibited cables.

Reference WCEC (page 26 – 85.19). (Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.070 Violations and penalties.

Each of the codes and regulations adopted in this chapter are hereby amended by the addition of the following:

> Violations and Penalties. Also reference WCEC (page 32 – 85.25, sections B & C).
>
> 1. A violation of the provisions of this Code shall be subject to the City's Civil Enforcement Procedures as set forth in Title 4 MMC and any person, firm or corporation who violates any provision of this Code shall be subject to said enforcement procedures. Provided, however, notwithstanding language to the contrary, any violation citation issued concerning a violation of this Code shall be issued by the Building Official or his/her designee.
>
> 2. Any person, firm or corporation who violates any provision of this Code shall be deemed guilty of a misdemeanor, and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of any such violation such person, firm or corporation shall be punishable by a fine not to exceed one thousand dollars, or imprisonment in jail not to exceed ninety days, or by both such fine and imprisonment.
>
> 3. The enforcement provisions and procedures provided in this Code are not exclusive and the City is authorized to pursue any remedy it deems appropriate or as otherwise provided by law.
>
> 4. The issuance or granting of a permit or approval of plans and/or specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or any other law or regulation. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorized is lawful.
>
> 5. The issuance or granting of a permit or approval of plans and/or specifications shall not prevent the building official or designee from thereafter requiring the correction of errors in said plans and/or specifications or from preventing construction operation being carried on thereunder when in violation of this Code or of any other ordinance, law or regulations or from revoking any certificate of approval when issued in error.

(Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.100 Board of electrical appeals.

(1) Appeals from any ruling made under this chapter may be made to the building code board of appeals. Procedural rules concerning appeals shall be as provided in the building code.

(2) Section 85.27, Means of Appeal, is deleted from WCEC (page 31 – 85.27). (Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

16.12.200 Annex 1-2-3.

Annex A, B, C to the National Electrical Code, 2008 Edition, are adopted, incorporated by this reference, and made a part of this chapter as if fully set forth in this chapter. (Ord. 2821 § 1, 2010; Ord. 2740 § 3, 2008; Ord. 2708 § 3, 2007).

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 Board of appeals designated appeals commission.
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,":

(1) 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 Board of appeals designated appeals commission.

The board of appeals established in Chapter 16.04 MMC and the International Building Code is hereby designated as the appeals commission under this chapter. When acting as the appeals commission the board of appeals shall act in accordance with the requirements of this chapter. All references in this chapter to the appeals commission shall refer to the board of appeals as designated in this section. (Ord. 2931 § 1, 2013; 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.
16.28.045 Appeals.

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, 2009 Edition," and Appendix Chapter A thereto, published by the International Code Council, and the "International Fuel Gas Code, 2009 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. 2876 § 4, 2011; Ord. 2740 § 4, 2008; Ord. 2708 § 4, 2007; 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 2009 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 70 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.

2009 IMC INTERNATIONAL MECHANICAL CODE

TABLE 1-A MECHANICAL PERMIT FEES

Permit Issuance and Heaters	
1. For the issuance of each mechanical permit	$50.00
2. For issuing each supplemental permit for which the original permit has not expired, been canceled or finaled	$30.00
Unit Fee Schedule	
(Note: The following do not include permit-issuing fee.)	
1. **Furnaces**	
For the installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance up to and including 100,000 Btu/h (29.3 kW)	$20.00
For the installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance over 100,000 Btu/h (29.3 kW)	$20.00
For the installation or relocation of each floor furnace, including vent	$20.00
For the installation or relocation of each suspended heater, recessed wall heater or floor-mounted unit heater	$20.00
2. **Appliance Vents**	
For the installation, relocation or replacement of each appliance vent installed and not included in an appliance permit	$20.00
3. **Repairs or Additions**	
For the repair of, alteration of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit, or each heating, cooling, absorption or evaporative cooling system, including installation of controls regulated by the Mechanical Code	$20.00
4. **Boilers, Compressors and Absorption Systems**	
For the installation or relocation of each boiler or compressor to and including 3 horsepower (10.6 kW), or each absorption system to and including 100,000 Btu/h (29.3 kW)	$20.00
For the installation or relocation of each boiler or compressor over 3 horsepower (10.6 kW) to and including 15 horsepower (52.7 kW), or each absorption system over 100,000 Btu/h (29.3 kW) to and including 500,000 Btu/h (146.6 kW)	$30.00

2009 IMC INTERNATIONAL MECHANICAL CODE

TABLE 1-A MECHANICAL PERMIT FEES (Continued)

For the installation or relocation of each boiler or compressor over 15 horsepower (52.7 kW) to and including 30 horsepower (105.5 kW), or each absorption system over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)	$40.00
For the installation or relocation of each boiler or compressor over 30 horsepower (105.5 kW) to and including 50 horsepower (176 kW), or each absorption system over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)	$60.00
For the installation or relocation of each boiler or compressor over 50 horsepower (176 kW), or each absorption system over 1,750,000 Btu/h (512.9 kW)	$99.00
5. **Air Handlers**	
For each air-handling unit to and including 10,000 cubic feet per minute (cfm) (4,719 L/s), including ducts attached thereto	$20.00
Note: This fee does not apply to an air-handling unit which is a portion of a factory-assembled appliance, cooling unit, evaporative cooler, or absorption unit for which a permit is required elsewhere in the Mechanical Code.	
For each air-handling unit over 10,000 cfm (4,719 L/s)	$20.00
6. **Evaporative Coolers**	
For each evaporative cooler other than portable type	$20.00
7. **Ventilation and Exhaust**	
For each ventilation fan connected to a single duct	$20.00
For each ventilation system which is not a portion of any heating or air-conditioning system authorized by a permit	$20.00
For the installation of each hood which is served by mechanical exhaust, including the ducts for such hood	$20.00
8. **Incinerators**	
For the installation or relocation of each domestic-type incinerator	$20.00
For the installation or relocation of each commercial or industrial-type incinerator	$16.00
9. **Miscellaneous**	
For each appliance or piece of equipment regulated by the Mechanical Code but not classed in other appliance categories, or for which no other fee is listed in the table, i.e., fire/smoke dampers	$20.00
For each additional supply or return air diffuser	$10.00
When Chapter 13 is applicable, permit fees for fuel gas piping shall be:	
Gas Piping System	
For each gas piping system of one to four outlets	$20.00
For each additional outlet exceeding four, each	$10.00
When Chapter 14 is applicable, permit fees for process piping shall be as follows:	
For each hazardous process piping system (HPP) of one to four outlets	$10.00
For each hazardous process piping system of five or more outlets, per outlet	$10.00
For each nonhazardous process piping system (NPP) of one to four outlets	$10.00
For each nonhazardous piping system of five or more outlets, per outlet	$10.00

Other Inspections and Fees

1. Inspections outside of normal business hours, per hour (minimum charge – two hours)	$75.00*
2. Reinspection fees assessed under provisions of Section 106.5.2, per inspection	$75.00*
3. Inspections for which no fee is specifically indicated, per hour (minimum charge – one-half hour)	$75.00*
4. Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed (minimum charge – one-half hour)	$75.00*
5. Jurisdiction may issue permit fees from project valuation and/or the hourly cost to cover employee inspection time, whichever is greatest.	
6. Typical plan review fees for mechanical work shall be equal to 25% of the total permit fee as set forth in Table 1-A and 106.5.2.	
7. For miscellaneous applications, plan reviews and permits including expired applications and permits for which no fee is specified: Fee will be at a rate of $75.00 per hour with a minimum fee of one hour at $75.00.	

*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

(Ord. 2876 § 4, 2011; Ord. 2740 § 4, 2008; Ord. 2708 § 4, 2007; Ord. 2523 § 3, 2004).

16.28.020 Subsequent amendments.

All amendments or supplements to the International Mechanical Code or the Appendix 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. 2876 § 4, 2011; Ord. 2740 § 4, 2008; Ord. 2708 § 4, 2007; 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. 2876 § 4, 2011; Ord. 2740 § 4, 2008; Ord. 2708 § 4, 2007; 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. 2876 § 4, 2011; Ord. 2740 § 4, 2008; Ord. 2708 § 4, 2007; Ord. 2523 § 3, 2004; Ord. 731 § 3, 1971).

16.28.045 Appeals.

Appeals from any ruling made under this chapter may be made to the building code board of appeals. Procedural rules concerning appeals shall be as provided in the building code. (Ord. 2876 § 4, 2011; Ord. 2740 § 4, 2008; Ord. 2708 § 4, 2007).

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).

Title 17

(Reserved)

Title 18

(Reserved)

Title 19

(Reserved)

Title 20

(Reserved)

Title 21

(Reserved)

Title 22

UNIFIED DEVELOPMENT CODE

Title 22A **Administration**

Title 22B **Comprehensive Plan and Subarea Plans**

Title 22C **Land Use Standards**

Title 22D **City-Wide Standards**

Title 22E **Environmental Standards**

Title 22F **Construction Standards (Reserved)**

Title 22G **Administration and Procedures**

Title 22H **Engineering Standards (Reserved)**

Title 22I **Enforcement**

Title 22J **Industrial Pilot Program – Living Wage Incentive**

Title 22A

ADMINISTRATION

Chapters:

22A.010 General Administration
22A.020 Definitions
22A.030 Zones, Maps and Designations
22A.040 Transition to MMC Title 22, Unified Development Code

Chapter 22A.010

GENERAL ADMINISTRATION

Sections:

22A.010.010 Title.
22A.010.020 Authority.
22A.010.030 Purpose.
22A.010.040 Conformity with this title required.
22A.010.050 Minimum requirements.
22A.010.060 Interpretation – General.
22A.010.070 Interpretation – Land use.
22A.010.080 Interpretation – Zoning maps.
22A.010.090 Administration and review authority.
22A.010.100 Conditions of approval.
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22A.010.120 No special duty created.
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22A.010.150 Effective date.
22A.010.160 Amendments.

22A.010.010 Title.

MMC Title 22 (MMC Titles 22A through 22I) shall be known as the city of Marysville unified development code and may be cited as the "UDC," "code" or "this title." (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.020 Authority.

The UDC is enacted under the authority granted to the city of Marysville by the Constitution of the State of Washington, the Optional Municipal Code (RCW Title 35A) and other sections of the Revised Code of Washington (RCW). (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.030 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 community development 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. 2852 § 10 (Exh. A), 2011).

22A.010.040 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. 2852 § 10 (Exh. A), 2011).

22A.010.050 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. 2852 § 10 (Exh. A), 2011).

22A.010.060 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 Chapters 22C.010 and 22C.020 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) For the purposes of this title, all words used in the code shall have their normal and customary meanings, unless specifically defined otherwise in this code.

(5) Words used in the present tense include the future.

(6) The plural includes the singular and vice versa.

(7) The words "will" and "shall" are mandatory.

(8) The word "may" indicates that discretion is allowed.

(9) The word "used" includes designed, intended, or arranged to be used.

(10) The masculine gender includes the feminine and vice versa.

(11) Distances shall be measured on a horizontal plane unless otherwise specified.

(12) The word "building" includes a portion of a building or a portion of the lot on which it stands.

(13) The word "days" refers to calendar days. (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.070 Interpretation – Land use.

(1) The community development director shall determine whether a proposed land use is allowed in a zone. The Standard Industrial Classification Manual (SIC), current edition, prepared by the 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 community development 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 22A.030 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 community development director shall be final unless the applicant or an adverse party files an appeal to the hearing

examiner pursuant to Chapter 22G.010 MMC, Article VIII, Appeals. (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.080 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 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. 2852 § 10 (Exh. A), 2011).

22A.010.090 Administration and review authority.

(1) Roles and Responsibilities.

(a) 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 are set forth in subsections (2) through (7) of this section.

(b) 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 Title 22.

(2) Community Development Director. The director or designee shall review and act on the following:

(a) Authority. The director is responsible for the administration of MMC Title 22;

(b) 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;

(c) Administrative Approvals. Administrative approvals set forth in MMC 22G.010.140, 22G.010.150 and 22G.010.160;

(d) Short plats;

(e) Shoreline permits for substantial development;

(f) SEPA (State Environmental Policy Act) determinations;

(g) Site plan with commercial, industrial, institutional (e.g., church, school) or multiple-family building permit;

(h) Site plan with administrative conditional use permit;

(i) Master plan for properties under ownership or contract of applicant(s);

(j) Temporary use permits, unless a public hearing is required as set forth in Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures, in which case this authority shall be exercised by the hearing examiner;

(k) Conditional use permits, unless a public hearing is required as set forth in Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures, in which case this authority shall be exercised by the hearing examiner;

(l) The community development director is hereby authorized after the date of the adoption of the ordinance codified in this title 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.

(3) City Council. In addition to its legislative responsibility, the city council shall review and act on the following subjects:

(a) Approval of final plats;

(b) Approval of the comprehensive plan and comprehensive plan amendments;

(c) Approval of area-wide rezones, and confirmation by ordinance of site-specific rezones approved by the hearing examiner.

(4) Planning Commission. The planning commission shall review and make recommendations on the following applications and subjects:

(a) Amendments to the comprehensive plan.

(b) Amendments to MMC Title 22C, Land Use Standards.

(c) Amendments to MMC Title 22D, City-Wide Standards.

(d) Amendments to MMC Title 22E, Environmental Standards.

(e) Amendments to Chapter 22G.040 MMC, Security for Performance and Maintenance.

(f) Amendments to Chapter 22G.070 MMC, Siting for Essential Public Facilities.

(g) Amendments to Chapter 22G.080 MMC, Planned Residential Development.

(h) Amendments to Chapter 22G.090 MMC, Subdivisions and Short Subdivisions.

(i) Amendments to Chapter 22G.100 MMC, Binding Site Plan.

(j) Amendments to Chapter 22G.110 MMC, Boundary Line Adjustments.

(k) Master plan, initiated by the city or other governmental agency, for a neighborhood or assembly of parcels under private ownership or contract.

(l) Recommendations to the hearing examiner on master plans initiated by private property owners, which includes outside ownership or contract of the applicants.

(m) Other actions requested or remanded by the city council.

(5) Hearing Examiner. The hearing examiner shall review and act on the following applications and subjects:

(a) Applications for preliminary subdivisions;

(b) Appeals of administrative decisions on preliminary short plats;

(c) Site-specific rezones (with final approval by ordinance of the city council);

(d) Binding site plan approvals subject to public hearing review;

(e) Conditional use permits subject to public hearing review;

(f) Nonadministrative variances to MMC Title 22;

(g) Appeals of administrative decisions and interpretations relating to MMC Titles 4, 12 and 22;

(h) Appeals of SEPA determinations;

(i) Master plan, initiated by private property owners, including land outside ownership or contract of applicant(s);

(j) Such other matters as are delegated by ordinance of the city council.

(6) Building Official. The building official shall have the authority to grant, condition or deny the following permits in accordance with the procedures set forth in Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures:

(a) Commercial building permits.

(b) Residential building permits.

(c) Clearing and grading permits.

(7) Building Code Board of Appeals. The board of appeals shall review and act on the following subjects:

(a) Appeals of decisions of the building official on the interpretation or application of the building or fire code;

(b) Disapproval of a permit for failure to meet the International Building or Fire Code.

The review criteria for the building code board of appeals are contained in MMC 16.04.035. (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.100 Conditions of approval.

All approvals granted pursuant to this title may be made subject to such conditions as are determined by the decision-maker to be reasonably necessary to protect the public health, safety or welfare and to assure compliance with the requirements of the land use and development codes. All conditions must be based upon written policies and standards adopted by the city council or by administrative rule of the planning commission, hearing examiner, community development director or other decision-maker. If conditions are imposed by a decision authorized by this title, the city may cause a notice to be recorded in the Snohomish County auditor's office that development on the affected property is subject to conditions. (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.110 Responsibility of applicant.

All applicants under this title in all cases have the responsibility to:

(1) Know the requirements of the law;

(2) Obtain and furnish all data and information, whether by actual tests and samples, engineering studies, surveys, or otherwise, necessary to permit proper processing of the application and to affirmatively demonstrate that all criteria, including personal qualifications, are met;

(3) Bear the cost or otherwise participate in required data collection and other necessary procedures;

(4) Employ competent professional services are warranted; and

(5) Demonstrate that representatives are authorized to act for another. (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.120 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 of 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. 2852 § 10 (Exh. A), 2011).

22A.010.130 Severability.

This title enacted under divisions, chapters, sections, clauses and other portions is declared to be severable. If any division, chapter, section, paragraph, clause or other portion or any part adopted by reference is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title. If any division, chapter, section, paragraph, clause or any portion is adjudged invalid or unconstitutional as applied to a particular property, use, building or other structure, the application of such portion of this title to other property, use, buildings or structures shall not be affected. (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.140 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. 2852 § 10 (Exh. A), 2011).

22A.010.150 Effective date.

The effective date of the UDC shall be February 28, 2011 (Ordinance No. 2852). (Ord. 2852 § 10 (Exh. A), 2011).

22A.010.160 Amendments.

The following amendments have been made to the UDC subsequent to its adoption:

Ordinance	Title (description)	Effective Date
2858	Traffic Impact Fee Exemption Refunds	April 25, 2011
2865	Chapter 22C.085 MMC, 88th Street Master Plan – Design Guidelines	June 20, 2011
2870	Chapter 22C.270 MMC, Solar Energy Systems	September 26, 2011
2894	Plat Extensions	April 23, 2011
2898	2012 Code Clean-Up Amendments	June 18, 2012
2913	Expiration of Application	December 3, 2012
2914	Site Plan Review Code	December 3, 2012
2922	SPMP Design Guidelines Amendments	April 22, 2013
2923	Chapter 22C.110, Temporary Uses	April 22, 2013
2927	Site and Building Design and Open Space Standards	June 24, 2013
2979	Caretaker's Quarters	December 18, 2014
2980	Master Planned Senior Communities	January 22, 2015
2981	Legislative Enactments	January 22, 2015
2982	Nonconforming Situations	January 22, 2015
2983	Sign Code	January 22, 2015
2985	Pet Daycares and Kennels	January 22, 2015
2986	Term for Expending Impact Fees	January 22, 2015

Ordinance	Title (description)	Effective Date
2987	State Environmental Policy Act (SEPA)	January 22, 2015
2988	State Environmental Policy (SEPA)	January 22, 2015
2989	Critical Areas Management – Geologic Hazards	January 22, 2015

(Ord. 2989 § 4, 2014; Ord. 2988 § 2, 2015; Ord. 2987 § 2, 2015; Ord. 2986 § 6, 2015; Ord. 2985 § 7, 2015; Ord. 2983 § 5, 2015; Ord. 2982 § 3, 2015; Ord. 2981 § 44, 2015; Ord. 2980 § 3, 2015; Ord. 2979 § 5, 2014; Ord. 2927 § 16, 2013; Ord. 2923 § 6, 2013; Ord. 2922 § 4, 2013; Ord. 2914 § 4, 2012; Ord. 2913 § 4, 2012; Ord. 2898 § 18, 2012; Ord. 2894 § 6, 2012; Ord. 2870 § 9, 2011; Ord. 2865 § 5, 2011; Ord. 2858 § 2, 2011; Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22A.020

DEFINITIONS

Sections:

22A.020.010 Undefined words and phrases.
22A.020.020 “A” definitions.
22A.020.030 “B” definitions.
22A.020.040 “C” definitions.
22A.020.050 “D” definitions.
22A.020.060 “E” definitions.
22A.020.070 “F” definitions.
22A.020.080 “G” definitions.
22A.020.090 “H” definitions.
22A.020.100 “I” definitions.
22A.020.110 “J” definitions.
22A.020.120 “K” definitions.
22A.020.130 “L” definitions.
22A.020.140 “M” definitions.
22A.020.150 “N” definitions.
22A.020.160 “O” definitions.
22A.020.170 “P” definitions.
22A.020.180 “Q” definitions.
22A.020.190 “R” definitions.
22A.020.200 “S” definitions.
22A.020.210 “T” definitions.
22A.020.220 “U” definitions.
22A.020.230 “V” definitions.
22A.020.240 “W” definitions.
22A.020.250 “X” definitions.
22A.020.260 “Y” definitions.
22A.020.270 “Z” definitions.

22A.020.010 Undefined words and phrases.

The definition of any word or phrase not listed in the definitions, which is in question when administering this title, shall be defined by the community development director from one of the sources set forth below. The sources shall be utilized by finding the desired definition from source number one, but if it is not available there, then source number two may be used and so on. The sources are as follows:

(1) Any city of Marysville resolution, ordinance, code, or regulation.

(2) Any statute or regulation of the state of Washington.

(3) Legal definitions from Washington common law or a law dictionary.

(4) The common dictionary.

(5) A Planners Dictionary published by the American Planning Association. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.020 "A" definitions.

"A-board" means a temporary portable sign, usually constructed of two pieces of wood, plastic or similar material attached to each other at the top edge, that stands like an "A" or is worn by a person such that one sign face is visible on either side of the sign. See also "Sandwich boards."

"Abandoned sign" means a sign which for a period of at least 60 consecutive days or longer no longer advertises or identifies a legal business establishment, product or activity.

"Abandoned sign structure" means a sign structure where no sign has been in place for a continuous period of at least three years.

"Accessory dwelling unit" or "ADU." An accessory dwelling unit is a separate additional living unit, including separate kitchen, sleeping, and bathroom facilities attached or detached from the primary residential unit, on a single-family lot. ADUs are known variously as:

(1) "Mother-in-law apartments";

(2) "Accessory apartments"; or

(3) "Second units."

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

(1) Accessory structures may be attached or detached from the primary structure.

(2) Examples of accessory structures include:

(a) Garages;

(b) Decks;

(c) Fences;

(d) Trellises;

(e) Flag poles;

(f) Stairways;

(g) Heat pumps;

(h) Awnings; and

(i) Other structures.

"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:

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(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.

"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) Antennas 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.

"Address sign" means a sign displaying only an address.

"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.

"Administrative decision" means a permit decision by an officer authorized by the local government. The decision may be for approval, denial, or approval with conditions and is subject to the applicable development standards of the land use or development codes.

"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.

"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.

"Adult facility or facilities" means an adult cabaret, adult drive-in theater, adult motion picture theater, adult panoram establishment, or body shampoo parlor.

"Adult family home" means a residential home in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

"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.

"Adult panoram establishment or adult panoram" means a business in a building or portion of a building which contains a 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 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.

"Aggrieved person" means one whose proprietary, pecuniary or personal rights would be substantially affected by a particular action as determined by the hearing examiner.

"Agricultural crop sales" means the retail sale of fresh fruits, vegetables and flowers produced on-site. This use is frequently found in roadside stands or U-pick establishments.

"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.

"Alternative energy system" means equipment used to generate thermal and/or electrical energy from non-utility sources. Alternative energy systems may include, but are not limited to, solar, wind, geothermal, etc. See also "Solar energy system."

"Anadromous fish" means fish that ascend to rivers from the sea for breeding, including salmon and trout.

"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.

"Animated sign" means a sign which has any visible moving part, flashing or oscillating lights, either natural or artificial, or visible movement achieved by any means that move, change, flash, oscillate or visibly alter in appearance, in order to depict action or to create special effects or scenes.

"Antenna" means any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television communications. Types of antenna elements include, but are not limited to: omni-directional (whip) antennas, sectorized (panel) antennas, multi- or single-bay (FM and TV), yagi, or parabolic (dish) antennas.

"Antenna array" means a single or group of antenna elements and associated mounting hardware, feed lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

"Antenna support structure" means a vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than 20 feet. Types of support structures include the following:

(1) Guyed antenna support structure (a style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building).

(2) Lattice antenna support structure (a tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross-bracing and metal crossed strips or bars to support antenna).

(3) Monopole antenna support structure (a style of freestanding antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof).

"Appeal" means a request for review of the interpretation of any provision of MMC Title 22.

Appeal – Standing For.

As provided under RCW 36.70C.060, persons who have standing are limited to the following:

(1) The applicant and the owner of property to which the land use decision is directed; and

(2) Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

(a) The land use decision has prejudiced or is likely to prejudice that person.

(b) That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision.

(c) A judgment in favor of that person would substantially eliminate or redress the preju-

dice to that person caused or likely to be caused by the land use decision; and

(d) The petitioner has exhausted his or her administrative remedies to the extent required by law (RCW 36.70C.060).

Applicant. An application for a permit, certificate, or approval under the land use codes must be made by or on behalf of all owners of the land and improvements. “Owners” are all persons having a real property interest. Owners include:

(1) Holder of fee title or a life estate;

(2) Holder of purchaser’s interest in a sale contract in good standing;

(3) Holder of seller’s interest in a sale contract in breach or in default;

(4) Grantor of deed of trust;

(5) Presumptively, a legal owner and a taxpayer of record;

(6) Fiduciary representative of an owner;

(7) Person having a right of possession or control; or

(8) Any one of a number of co-owners, including joint, in common, by entireties and spouses as to community property.

“Application, complete” means an application that is both counter-complete and determined to be substantially complete as set forth in Chapter 22G.010 MMC, Article I, Consolidated Application Process.

“Area of shallow flooding (floodplain management)” 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.

“Area of special flood hazard (floodplain management)” 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 letter A or V.

“Assisted living facility” means a multifamily residential use licensed by the state of Washington as a boarding home pursuant to Chapter 18.20 RCW, for people who have either a need for assistance with activities of daily living (which are defined as eating, toileting, ambulation, transfer (e.g., moving from bed to chair or chair to bath), and bathing) or some form of cognitive impairment but who do not need the skilled critical care provided by nursing homes.

(1) An “assisted living facility” contains multiple assisted living units.

(2) An “assisted living unit” is a dwelling unit permitted only in an assisted living facility.

“Attached housing” means two or more dwelling units attached by a common wall at a shared property line. These include:

(1) Townhouses;

(2) Row houses; and

(3) Other similar structures that are single-family residences on individual lots, sharing a common wall at a shared property line.

“Attached sign” means any sign attached or affixed to a building. Attached signs include wall signs, projecting signs, and window signs.

“Attached structure” means any structure that is attached by a common wall to a dwelling unit.

(1) The common wall must be shared for at least 50 percent of the length of the side of the principal dwelling.

(2) A breezeway is not considered a common wall.

(3) Structures including garages, carports, and house additions attached to the principal dwelling unit with a breezeway are still detached structures for purposes of this chapter and its administration.

“Attached WCF” means an antenna or antenna array, including RF-to-lightwave converter equipment, that is secured to an existing building, structure (not including an antenna support structure), utility pole, cross country electrical distribution tower, with or without any accompanying new pole or device which attaches it to the building or structure, together with feed lines, and base station, which may be located either on the roof, inside or outside of the building or structure.

“Automobile holding yard” means a lot, parcel or part thereof used for the storage of motor vehicles.

“Automobile sales lot” means any place outside a building where two or more automobiles are offered for sale or are displayed.

“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.

“Awning sign” means a sign attached to an awning, canopy or other similar structure, which is comprised of fabric, plastic or similar materials and is located over an entrance, a window or an outdoor service area at a place of business. An awning sign is a type of wall sign. A marquee sign is an awning sign.

(Ord. 2898 § 15, 2012; Ord. 2870 § 4, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.030 "B" definitions.

"Banner" means a temporary, lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constructed of nondurable materials, including, but not limited to, cardboard, cloth and/or plastic.

"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.

"Base flood (floodplain management)" 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 letter A or V.

"Base station" means the wireless service provider's specific electronic equipment used to transmit and receive radio signals located within and including cabinets, shelters, pedestals or other similar enclosures generally used to contain electronic equipment for said purpose.

"Basement (floodplain management)" means any area of the building having its floor subgrade (below ground level) on all sides.

"Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

"Battery electric vehicle" or "BEV" means any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.

"Battery exchange station" means a full automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.27 RCW and consistent with rules adopted under RCW 19.27.540.

"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.

"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.

"Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, which is derived from a valid scientific process in accordance with WAC 365-195-900 through 365-195-925, as amended.

"Best management practices" or "BMPs" refers to the schedules of activities, prohibitions of practices, maintenance procedures, and 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, dispersion, amended soils, biofiltration facilities, bioretention 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.

"Billboard" means a preprinted or hand-painted changeable advertising copy sign which directs attention to businesses, commodities, services, or facilities which are not primarily sold, manufactured, or distributed from the property on which the sign is located and are customarily leased for commercial purposes. The term "billboard" includes both the structural framework that supports a billboard and any billboard faces attached thereto.

"Binding site plan" means a drawing to scale which:

(1) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, and open spaces;

(2) 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;

(3) Contains provisions making any development be in conformity with the site plan; and

(4) Contains provisions in which an applicant can offer for sale, lease, or transfer of ownership of lots, parcels or tracts.

"Blade/bracket sign" means a small, pedestrian-oriented sign that projects perpendicular from a structure (blade sign) or is hung beneath an awning, canopy, or marquee (bracket sign).

"Block" means a group of lots, tracts or parcels within well-defined and fixed boundaries.

"Boathouse" means a structure specifically designed or used for storage of boats.

"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.

Bond. See "Suitable guarantee."

"Boundary line adjustment" means 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 this title for width and area for lots, tracts, parcels, and building sites.

"Boundary line adjustment/survey map" means a drawing to scale showing all the required information as specified in Chapter 22G.110 MMC.

"Boundary lines" means lines that separate and establish an area with fixed limits for lots, tracts, parcels or building sites.

"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.

"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.

"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.

"Building envelope" means the area of a lot within which a structure may be placed and that is defined by minimum setbacks.

"Building facade" means the front of the building and any street wall face.

"Building height" means the vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances.

"Building line" means the line of that face, corner, roof or part of a building nearest the property line.

"Building official" means the supervisor of the building division, or his or her designee.

"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.

"Building site" means an area identified on the face of the proposed plat, short plat or binding site plan establishing buildable areas.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.040 "C" definitions.

"Cannabis or marijuana" means all parts of the plant cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this definition, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and usable cannabis.

"Canopy sign" means any permanent sign attached to or constructed underneath a canopy. These signs are below a projecting structure, which extends over the pedestrian walkway and which would effectively prevent a wall sign from being visible to the pedestrian walking under the canopy. See also "Projecting sign" and "Blade/bracket sign."

"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.

"Caretaker's quarters" means a dwelling unit which is accessory to a permitted commercial or institutional use that is occupied exclusively by the caretaker or manager employed by the business or institution which it serves. Said dwelling unit must be located on the same property of the business or institution it serves; is limited to one such unit per property; and must be demonstrated to be clearly incidental and subordinate to the primary business or institutional use and the structure it serves.

"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.

"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.

"Change of occupancy" means 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.

"Changeable copy sign" means a sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units), or manually through placement of letters or symbols on a panel mounted in or on a track system.

"Charging levels" means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms "1," "2" and "3" are the most common EV charging levels, and include the following specifications:

(1) Level 1 is considered slow charging.
(2) Level 2 is considered medium charging.
(3) Level 3 is considered fast or rapid charging.

"City" means the city of Marysville, Washington.

"City gateway sign" means a sign constructed and maintained by the city to welcome citizens and visitors to the city. Gateway signs are usually installed along major arterial streets leading into the city.

"City standards" means the engineering design and development standards as published by the department of public works.

"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.

"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.

"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.

"Closed record appeal hearing" means a hearing, conducted by a single hearing body or officer authorized to conduct such hearings, that relies on the existing record created during a quasi-judicial

hearing on the application. No new testimony or submission of new evidence and information is allowed.

"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.

"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.

"Co-location" means the practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio-frequency-generating equipment.

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"Combined antenna" means an antenna or an antenna array designed and utilized to provide multiple services or services for more than one wireless provider for the same or similar type of services.

"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.

"Commercial vehicle" means a motor vehicle used for purposes other than a family car, such as a taxi, delivery or service vehicle.

"Community meeting" means an informal meeting, workshop, or other public meeting to obtain comments from the public or other agencies on a proposed project permit generally prior to the submission of an application.

(1) A community meeting is between an applicant and owners, residents of property in the immediate vicinity of the site of a proposed project and the public, conducted prior to the submission of an application to the city of Marysville.

(2) A community meeting does not constitute an open record hearing.

(3) The proceedings at a community meeting may be recorded and a report or recommendation shall be included in the permit application file.

"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 re-establish 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.

"Comprehensive plan" means the city of Marysville comprehensive plan, a document adopted pursuant to Chapter 36.70A RCW providing land use designations, goals and policies regarding land use, housing, capital facilities, housing, transportation, and utilities.

"Comprehensive plan amendment" means an amendment or change to the text or maps of the comprehensive plan.

"Concealed WCF," sometimes referred to as a "stealth" or "camouflaged" facility, means the antenna or antenna array, antenna support structure, base station, and feed lines are not readily identifiable as such, and are designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. Examples of concealed attached facilities include, but are not limited to, the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. Examples of concealed antenna support structures can have a secondary, obvious function which may be, but is not limited to, the following: church steeple, windmill, bell tower, clock tower, cupola, light standard, utility pole, flagpole with or without a flag, or tree.

"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.

"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.

"Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to Chapter 64.34 RCW.

"Consolidation" means removal of one or several antenna support structure(s) or attached WCF located within a 1,500-foot radius of the center of the consolidated antenna support structure and its base station in order to encourage compliance with this chapter or to improve aesthetics or functionality of the overall wireless network.

"Construction sign" means a sign on the site of a construction project that identifies the project, its

character, or purpose and that may include the architects, engineers, planners, contractors or other individuals or firms involved.

"Contiguous parcels" means land adjacent to other land which is under the same ownership and not separated by public right-of-way.

"Cottage housing developments" means a grouping of small, single-family dwelling units, clustered around a common area and developed with a coherent plan for the site in accordance with MMC 22C.010.280, Cottage housing developments.

"Council" means the city council of the city of Marysville.

"County" means Snohomish County, Washington.

"Covenants, conditions, and restrictions" or "CC&Rs" means a document setting forth the covenants, conditions, and restrictions applicable to a development, recorded with the Snohomish County auditor and, typically, enforced by a property owner's association or other legal entity.

"Critical areas" means areas of environmental sensitivity, which include the following areas and ecosystems:

(1) Wetlands;

(2) Fish and wildlife habitat; and

(3) Geologically hazardous areas.

"Critical facility (floodplain management)" 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, and installations which produce, use or store hazardous materials or hazardous waste.

"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 State 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 22E.010.060;

(d) Documented commercial and recreational shellfish beds managed by the Washington State 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.

"Crops" means all plants grown for human or animal consumption or use.

"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. 2979 § 1, 2014; Ord. 2959 § 1, 2014; Ord. 2932 § 1, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.050 "D" definitions.

"Day" means a calendar day. A time period expressed in a number of days is computed by excluding the first day and including the last day. When an act to be done requires a city business day, and the last day by which the act may be done is not a city business day, then the last day to act is the following business day.

"Day care" means an establishment for group care of nonresident adults or children.

(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 that provides day care to a maximum of 12 adults or children in any 24-hour period; and

(b) Day care II – A facility that provides day care to over 12 adults or children in any 24-hour period.

"Deciduous" means a plant species with foliage that is shed annually.

"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.

"Density" means the number of housing units per acre as permitted by this title.

"Department" means the city of Marysville community development department.

"Department of Ecology" or "DOE" means the Washington State Department of Ecology.

"Detached building" means a building surrounded on all sides by open space.

"Developer" means a person applying for or receiving a permit or approval for a development.

"Development" means any proposed land use, zoning, or rezoning, comprehensive plan amendment, annexation, subdivision, short subdivision, planned residential development, binding site plan, conditional use permit, shoreline development permit, or any other property development action permitted or regulated by the Marysville Municipal Code.

"Development (floodplain management)" 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.

"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. A directional sign is a type of instructional sign.

"Director" means the community development director for the city of Marysville.

"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.

"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.

"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.

"Duplex" means a building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

"Dwelling unit" means a building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more

than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory, such as an outdoor grill. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.060 "E" definitions.

"Easement" means a right granted by a property owner to specifically named parties or to the public for the use of certain land for specified purposes.

"Effective date" means the date a final decision becomes effective.

"EIS" means environmental impact statement.

"Elderly" means a person 62 years of age or older.

"Electric scooters and motorcycles" means any two-wheel vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries and produces zero emissions or pollution when stationary or operating.

"Electric sign" means any sign containing electrical wiring, lighting, or other electrical components, but not including signs illuminated by a detached exterior light source.

"Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on board for motive purpose. "Electric vehicle" includes:

(1) A battery electric vehicle;

(2) A plug-in hybrid electric vehicle;

(3) A neighborhood electric vehicle; and

(4) A medium-speed electric vehicle.

"Electric vehicle charging station" means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with Level 1 or Level 2 charging equipment is permitted outright as an accessory use to any principal use.

"Electric vehicle charging station – public" means an electric vehicle charging station that is:

(1) Publicly owned and publicly available (e.g., park and ride parking, public library parking lot, on-street parking); or

(2) Privately owned and publicly available (e.g., shopping center parking, nonreserved parking in multifamily parking lots).

"Electric vehicle charging station – restricted" means an electric vehicle charging station that is:

(1) Privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking); or

(2) Publicly owned and restricted (e.g., fleet parking with no access to the general public).

"Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

"Electric vehicle parking space" means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

"Electronic message sign" means a variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix. Also known as "changeable copy sign."

"Elevated building (floodplain management)" 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.

"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.

"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.

"Environmentally sensitive areas" means those areas regulated by Chapter 22E.010 MMC, and their buffers.

"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.

"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.

"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.

"Evergreen" means a plant species with foliage that persists and remains green year-round.

"Ex parte communication" means any oral or written communication made by any person, including a city employee or official, pertaining to a matter that is or will be within the jurisdiction of the City Council, Hearing Examiner or Planning Commission made outside of a public record.

"Existing and ongoing agricultural activities (small farms overlay zone)" 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.

"Existing and ongoing agricultural activities" means 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.

"Existing manufactured home park or subdivision (floodplain management)" 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.

"Exotic species" means any species of plant or animal that is not indigenous to the area.

"Expansion to an existing manufactured home park or subdivision (floodplain management)" 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). (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.070 "F" definitions.

"FAA" means the Federal Aviation Administration.

"Facade" means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

"Factory-built commercial building or 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 International Building Code. Once erected at the site, they are not mobile and are not considered to be mobile/manufactured homes.

"Factory-built housing or 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 International Building Code. Once erected at the site, they are not mobile and are not considered to be mobile/manufactured homes.

"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.

"FCC" means the Federal Communications Commission.

"Federal manual" or "federal methodology" means the methodology for identifying wetlands in the field as described in the U.S. Army Corps of Engineers Wetlands Delineation Manual (January 1989).

"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.

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.

"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.

"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.

"Final decision" means the final action by the director, hearing examiner, or city council.

"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.

"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.

"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.

"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.

"Flashing sign" means an illuminated sign which lights suddenly or intermittently. A strobe light used to attract attention to a business is an example of a flashing sign.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map" or "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 city.

"Flood insurance study (floodplain management)" 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.

"Floodway (floodplain management)" 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.

"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.

"Flush-mounted" means any antenna or antenna array attached directly to the face of the antenna support structure, structure, or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

"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.

"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.

"Freestanding sign" means a sign on a frame, pole, or other support structure that is not attached to any building. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.080 "G" definitions.

"Garage" means:

(1) A covered structure designed to provide shelter for vehicles, and which is accessory to a use in these structure types:

(a) Houses;

(b) Attached houses;

(c) Duplexes;

(d) Mobile homes; or

(e) Houseboats.

(2) Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage.

(3) A garage may be attached to or detached from another structure.

"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.

"Garage or yard sale sign" means a temporary sign used to direct people to a sale of personal household possessions.

"Garage sale" means the sale of used household personal items by the owner thereof.

"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.

"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.

"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.

"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.

"Geotechnical study" means a professional report by a certified and licensed geotechnician/civil engineer on a land development project, to determine susceptibility of geological hazards such as erosion, landslides, earthquakes, and other geologic events.

"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.

Grade. See "Base elevation."

"Grading" means any excavating, filling, clearing, leveling, or contouring of the ground surface by human or mechanical means.

"Gross project area" means the total project site.

"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.

"Growth Management Act" or "GMA" means Chapter 36.70A RCW, as now in existence or as hereafter amended. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.090 "H" definitions.

"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.

"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.

"Hearing examiner" means the land use hearing examiner for the city.

"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.

"Home, rest, convalescent, or 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.

"Homeowners' association" means any combination or group of persons or any association, corporation or other entity that represents homeowners residing in a short subdivision, subdivision or planned residential development. A homeowners' association shall be an entity legally created under the laws of the state of Washington.

"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.

"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.

"House" means a detached dwelling unit located on its own lot.

"Household" means a housekeeping unit consisting of:

(1) An individual;

(2) Two or more persons related by blood or marriage;

(3) A group of two or more disabled residents protected under the Federal Fair Housing Amendment Act of 1988;

(4) Adult family homes as defined under Washington State law; or

(5) A group living arrangement where six or fewer residents receive support services such as counseling, foster care or medical supervision at the dwelling unit by resident or nonresident staff; and

(6) Up to six residents not related by blood or marriage, or in conjunction with any of the above individuals or groups, may occupy a dwelling unit. 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. 2852 § 10 (Exh. A), 2011).

22A.020.100 "I" definitions.

"Impact fee" means a charge or fee assessed by the city which mitigates all or any portion of a direct impact.

"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. Low impact development methods including, but not limited to, pervious pavement systems, green roofs and the area within minimal excavation foundations may reduce impervious area subject to consistency with the Low Impact Development Technical Guidance Manual for Puget Sound and approval of the city engineer.

"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.

"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."

"Incidental signs" are small signs of a noncommercial nature without advertising, intended primarily for the convenience of the public, about goods, facilities, or services available on the premises including, but not limited to, restrooms, hours of operation, entrances and exits to buildings and parking lots, help wanted, public telephones, acceptable credit cards, property ownership or management, or recycling containers.

"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.

"Instructional signs" means a sign clearly intended for instructional purposes, as determined by the community development director, and shall not be included in the permitted sum of the sign area of identification wall signs, provided such sign is not larger than six square feet per sign, and such sign is not in a location, and does not include design characteristics, that constitutes or serves the purposes of an identification sign.

"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.

"Internally illuminated signs" means any sign where light shines through a transparent or semi-transparent sign face to illuminate the sign's message. Exposed neon is considered to be a form of internal illumination. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.110 "J" definitions.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.120 "K" definitions.

"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. The term "commercial kennel" shall not apply to legally established commercial enterprises which operate exclusively as veterinary hospitals or clinics, pet stores, pet daycares, or grooming parlors.

"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.

"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. 2985 § 3, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.130 "L" definitions.

"Land surveyor" means an individual licensed as a land surveyor pursuant to Chapter 18.43 RCW.

"Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land.

"Landslide" means episodic downslope movement of a mass of soil or rock and includes snow avalanches.

"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 through 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.

"Least visually obtrusive profile" means the design of a wireless communication facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

"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.

Lot.

(1) "Lot" is a parcel or tract of land so designated on a recorded plat or assessor's plat, or:

(a) In an unplatted area, a tract having frontage on a public street or private street within a planned residential development or binding site plan and having the minimum size and dimensions required for a building site by the zoning code; or

(b) A building site designated as such on an approved planned development plan; or

(c) An unplatted area, legally created, and having the minimum size and dimensions required for a building site by the zoning code, but that does not have frontage on a public street.

(2) A tract consisting of more than one contiguous lot may be considered as one lot for development purposes, subject to interpretation of the location of the front and rear yards.

(3) A "corner lot" is a lot bounded on two adjacent sides by intersecting public streets.

(4) An "interior lot" is a lot other than a corner lot.

(5) A "through lot" is a lot bounded on opposite sides by parallel or approximately parallel public streets.

"Lot area" 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.

Lot Depth. The depth of a lot is the horizontal distance between the front lot line and the rear lot line measured in the main direction of the side lot lines.

"Lot lines" means the property lines along the edge of a lot or site.

(1) "Front lot line" means the yard abutting an improved street from which the lot gains primary access or the yard abutting the entrance to a building and extending the full width of the lot. If this definition does not establish a front yard setback, the community development director shall establish the front yard based upon orientation of the lot to surrounding lots and the means of access to the lot. A lot line, or segment of a lot line, that abuts a street.

(a) On a corner lot, the other lot line abutting the intersecting street shall become a side street lot line having a reduced setback requirement of 10 feet; except when the side street lot line abuts a designated arterial, in which case the side street setback shall be 15 feet and the rear setback can be reduced to 10 feet.

(b) A through lot has two front lot lines.

(2) "Rear lot line" 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.

(3) "Side lot line" means a lot line that is neither a front nor rear lot line.

(4) "Side street lot line" means a lot line that is both a side lot line and a street lot line.

(5) "Street lot line" means a lot line, or segment of a lot line, that abuts a street.

(a) "Street lot line" does not include lot lines that abut an alley.

(b) On a corner lot, there are two (or more) street lot lines.

(c) Street lot lines can include front lot lines and side lot lines.

Lot Width. The width of a lot is the horizontal distance between the side lot lines measured on a line intersecting at right angles the line of the lot depth 30 feet from the front lot line.

"Lowest floor (floodplain management)" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-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 nonelevation design requirements of this code. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.140 "M" definitions.

Manufactured Home, Designated. A "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(1) Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;

(2) Was originally constructed with and now has a composition or wood shake or shingle, coated metal or similar roof of nominal 3:12 pitch; and

(3) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built International Building Code single-family residences.

"Manufactured home (floodplain management)" 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.”

“Manufactured home park or subdivision (floodplain management)” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Marijuana-infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include usable marijuana.

“Marijuana processor” means a person licensed by the State Liquor Control Board to process marijuana into usable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

“Marijuana producer” means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana-infused products in a retail outlet.

“Marijuana use” includes a store, agency, organization, dispensary, cooperative, network consultation, operation, or other business entity, group or person, no matter how described or defined, including any associated premises and equipment which has for its purpose or which is used to grow, select, measure, process, package, label, deliver, dispense, sell or otherwise transfer for consideration, or otherwise, marijuana in any form.

“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.

“Marquee” means a permanent structure attached to, supported by, and projecting from a building and providing protection from the weather elements, but which does not include a projecting roof. For purposes of these standards, a freestanding, permanent, roof-like structure providing protection from the elements, such as a service station gas pump island, shall also be considered a marquee. The definition also includes an awning and a canopy.

“Marquee sign” means a sign incorporated into or attached to a marquee.

“Master plan” means 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.

“Master planned senior community” means a master plan for a site that incorporates a range of care options for senior citizens or disabled persons, including but not limited to independent senior housing, senior assisted living, and nursing homes. The proposed development must offer a continuum of care that offers varying degrees of assistance for individuals as they are needed. The community must include an integration of residential living units or beds, recreation, congregate dining, and on-site medical facilities/services.

“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.

“Medical marijuana (cannabis) collective gardens” or “collective garden” means a garden where qualifying patients engage in the production, processing, and delivery of cannabis for medical use as set forth in Chapter 69.51A RCW and subject to the limitations therein and in this code.

“Medical marijuana (cannabis) dispensary” or “dispensary” means any facility or location where medical marijuana is grown, made available to and/or distributed by or to two or more of the following: a primary caregiver, a qualified patient, or a person with an identification card.

"Medium-speed electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than 25 miles per hour but not more than 35 miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 CFR Section 571.500.

"Menu sign" means a menu board at the entrance to a drive-through lane at a restaurant or an automobile service facility listing menu items or services for sale at the establishment. Car washes or automobile lubrication facilities typically display a menu sign.

"Miscellaneous health establishments" means establishments primarily engaged in providing health and allied services, including but not limited to physical and occupational therapists; blood banks; blood donor stations; medical photography and art; osteoporosis centers; kidney dialysis centers; sperm banks; etc.

"Mitigation" or "mitigate" means an action which avoids a negative adverse impact and is reasonable and capable of being accomplished.

"MMC" means the Marysville Municipal Code, as amended.

"Mobile home" means a transportable, factory-built home designed and intended to be used as a year-round dwelling, and built prior to the enactment of the Federal Manufactured Housing and Safety Standards Act of 1974. Mobile homes are no longer built.

"Mobile/manufactured home lot" means a plot of ground within a mobile/manufactured home park designated to accommodate one mobile/manufactured home.

"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.

"Monument sign" means a freestanding sign that is attached directly to the ground with a decorative base made of wood, masonry or other similar material. Monument signs may have posts comprised of wood, masonry, or metal so long as the posts are completely surrounded by the decorative base. The width of the top of the sign structure can be no more than 120 percent of the width of the base. Monument signs shall not exceed 12 feet in height, and any permanent freestanding sign 12 feet in height or shorter shall be considered a monument sign except that this definition shall not apply to directional signs.

"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.

"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.

"Multifamily, dwelling unit" means a building containing three or more dwelling units, or units when above a ground floor commercial use. The term includes triplexes, fourplexes, apartments, condominiums and the like. It does not include boarding houses, motels or hotels.

"Mural" means a large decorative image, not an advertisement that is painted or drawn on an exterior wall of a structure. (Ord. 2983 § 1, 2015; Ord. 2959 § 2, 2014; Ord. 2932 § 2, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.150 "N" definitions.

"Nameplate" means a sign displaying only an occupant's name or the name or address of premises.

"Native fish" means fish existing on a site or fish species that are indigenous to the area in question.

"Native vegetation" means vegetation existing on a site or plant species that are indigenous to the area in question.

"Naturalized species" means nonnative species of vegetation that are adaptable to the climatic conditions of the coastal region of the Pacific Northwest.

"Neighborhood electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour and conforms to federal regulations under 49 CFR Section 571.500.

"Net density" means the number of dwelling units divided by the 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, storm water detention facility tracts or easements (unless underground and usable

for recreation), private roads or access easements, panhandles, and nontransferable critical areas (e.g., stream channels) per MMC 22E.010.360. If storm water detention areas are designed and constructed to meet low impact development standards, 50 percent of the area used for detention may be counted as net project area.

"New construction (floodplain management)" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

"New manufactured home park or subdivision (floodplain management)" 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.

"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.

"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.

"Nonconforming sign" means a sign that was created and issued a permit in conformance with development regulations at the time of its installation, but which subsequently, due to a change in the zone or land use regulations, is no longer in conformance with the currently applicable development standards.

"Nonelectric vehicle" means any motor vehicle that does not meet the definition of "Electric vehicle."

"Nonhydroelectric generation facility" means an establishment for the generation of electricity by nuclear reaction, burning fossil fuels, or other electricity generation methods.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.160 "O" definitions.

"Off-premises sign" means a sign relating, through its message and content, to a business activity, use, product, or service not available on the premises upon which the sign is erected.

"Off-street parking" means parking facilities for motor vehicles on other than a public street or alley.

"On-premises sign" means a sign relating, through its message and content, to a business activity, use, product, or service available on the premises upon which the sign is erected.

"Open record hearing" means a hearing, conducted by a single hearing body or officer authorized to conduct such hearings, that creates a record through testimony and submission of evidence and information (RCW 36.70.B.050(2)).

"Open space" means any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment.

"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.

"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.

"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.

"Ordinary high water mark" or "OHWM" 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.

"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."

"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.

Owner/Ownership Interest. Owners are all persons having a real property interest. Owners include, with respect to real property:

(1) Holder of fee title or a life estate;

(2) Holder of purchaser's interest in a sale contract in good standing;

(3) Holder of seller's interest in a sale contract in breach or in default;

(4) Grantor of deed of trust;

(5) Presumptively, a legal owner and a taxpayer of record;

(6) Fiduciary representative of an owner;

(7) Person having a right of possession or control; or

(8) Any one of a number of co-owners, including joint, in common, by entireties and spouses as to community property. (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.170 "P" definitions.

"Painted sign" means a sign painted on a wall, fence or other structure and not lighted by internal illumination. A painted sign is a type of wall sign.

"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.

Parcel. See definition for "Lot."

"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.

"Party of record" or "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.

"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.

"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.

"Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

"Pet daycare" means any commercial facility where four or more dogs, or other pet animals, are left by their owners during the daytime for periods of supervised social interaction in play groups with other animals of the same species. Supervised social interaction occurs during the majority of the time the pets are at the facility.

"Planned action" means a significant development proposal as defined in RCW 43.21C.031 (SEPA) as amended.

"Plans" means planning documents, which are developed by the various departments of the city, pertaining to the orderly development of public facilities.

"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.

"Plat – final" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, alleys, or other divisions and dedications and containing all elements and requirements set forth in the chapter and Chapter 58.17 RCW.

"Plat – preliminary" means:

(1) A neat and approximate drawing of a proposed subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of a subdivision required by this chapter and Chapter 58.17 RCW.

(2) The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

"Plug-in hybrid electric vehicle" or "PHEV" means an electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; (2) charges its battery primarily by connecting to the grid or other off-board electrical source; (3) may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and (4) has the ability to travel powered by electricity.

"Pole sign" means a freestanding sign hung from or supported by vertical standing pipe(s), wood beam(s) or other material(s) that are affixed to the ground at one end and to the sign at the other end if the support(s) are clearly visible. This definition also includes a pylon sign.

"Portable sign" means any movable sign not permanently attached to the ground or a building and easily removable using ordinary hand tools.

"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.

"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.

"Priority species" or "priority wildlife species" means wildlife species of concern due to their population status and sensitivity to habitat alteration as identified by the Washington State Department of Wildlife.

"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.

"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.

"Projecting sign" means a sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. See also "Canopy sign."

"Promotional sign" means posters, pennants, banners or streamers, balloons, searchlights, clusters of flags, strings of twirlers or propellers, flares, and other displays of a carnival nature used to promote a grand opening or sales events.

"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.

"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.

"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.

"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.

"Public agency yard" means a facility for open or enclosed storage, repair, and maintenance of vehicles, equipment, or related materials, excluding document storage.

"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.

"Public safety sign" means a sign advertising a location where public safety services are available.

"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.

"Public street" means a right-of-way which provides vehicular and pedestrian access to adjacent properties, which the city has officially accepted into its street system. (Ord. 2985 § 4, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.180 "Q" definitions.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.190 "R" definitions.

"Radio frequency emissions" means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

"Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

"RCW" means the Revised Code of Washington, as amended.

"Readerboard sign" means a sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. See also "Changeable copy sign."

"Real estate sign" means a portable or temporary sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments.

"Recreational vehicle" or "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.

"Recreational vehicle (floodplain management)" means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"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.

"Recreational vehicle site" means a plot of ground within a recreational vehicle park intended for accommodation of a recreational vehicle on a temporary basis.

"Redivision" means the redivision of a lot located within a previously recorded plat or short plat.

"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.

"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.

"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.

"Residential development sign" means a sign identifying a residential subdivision or multifamily complex.

"Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of usable marijuana and marijuana-infused products.

"Revolving sign" means a sign that revolves or partially revolves by mechanical means.

"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.

"Risk potential activity or 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;

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(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.

"Roof sign" means any sign erected upon or above a roof or parapet of a building or structure. (Ord. 2959 § 3, 2014; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.200 "S" definitions.

"Salmonid" means belonging to the family of Salmonidae, including the salmons, trouts, chars, and whitefishes.

"Sandwich boards" means a self-supporting A-shaped freestanding temporary sign with only two visible sides that are situated to a business, typically on a sidewalk. See also "A-board."

"School bus base" means an establishment for the storage, dispatch, repair and maintenance of coaches and other vehicles of a school transit system.

"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.

"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.

"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.

"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.

"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.

"Seismic hazard areas" means areas that, due to a combination of soil and ground water 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.

"Self-service storage facility" means an establishment containing separate storage spaces that are leased or rented as individual units.

"Senior citizen assisted dwelling unit" 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.

"SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology.

"Setback" means the minimum distance required between a specified object, such as a building and another point. Setbacks are usually measured from lot lines to a specified object but may also be measured from improvements, rights-of-way, easements, drainage ways, steep slopes or other boundaries or potential hazards that are

required to remain free of structures. In addition, the following setbacks indicate where each setback is measured from:

(1) "Front setback" means a setback that is measured from a front lot line.

(2) "Rear setback" means a setback that is measured from a rear lot line.

(3) "Side setback" means a setback that is measured from a side lot line.

(4) "Street setback" means a setback that is measured from a street lot line.

"Shooting range" means a facility designed to provide a confined space for safe target practice with firearms, archery equipment, or other weapons.

"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.

"Shoreline Management Act," "the SMA" or "Act" means Chapter 90.58 RCW, as amended.

"Short plat – final" means the final drawing of the short subdivision and dedication, prepared for filing for record with the Snohomish County auditor and containing all elements and requirements set forth in this title and Chapter 58.17 RCW.

"Short plat – preliminary" means:

(1) A neat and approximate drawing of a proposed short subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of a short subdivision required by this title and Chapter 58.17 RCW.

(2) The preliminary short plat shall be the basis for the approval or disapproval of the general layout of a short subdivision.

"Short subdivision" means a division or redivision of land into nine or fewer lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership. (RCW 58.17.020(6).)

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

"Sign face" means the portion of a sign which contains lettering, logo, trademark, or other graphic representations.

"Sign maintenance" means normal care needed to keep a sign functional, such as cleaning, painting, oiling, and changing of light bulbs.

"Sign repair" means fixing or replacement of broken or worn parts. Replacement includes comparable materials only.

"Sign structure" means a structure specifically intended for supporting or containing a sign. This definition shall include any decorative covers, braces, wires, supports, or components attached to or placed around the sign structure.

"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.

"Single-family attached dwelling unit" 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.

"Single-family detached dwelling unit" means a detached building designed for and occupied exclusively by one family and the household employees of that family, including manufactured homes.

"Single-family residential building" means a dwelling containing only one dwelling unit.

"Site plan" means 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, depend-

ing on requirements, the locations of proposed utilities. Such a site plan should accompany commercial and industrial building permits, condi-

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tional use permits, multiple-family or other uses that require review of parking, landscaping or other design features prior to permit issuance.

"Site plan review" means 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.

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

"Small farm, new" 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.

"Soil recycling/incineration facility" means an establishment engaged in the collection, storage and treatment of contaminated soils to remove and reuse organic contaminants.

"Solar array" means multiple solar panels.

"Solar energy system" means equipment that converts and then transfers or stores solar energy into usable forms of thermal and/or electrical energy.

"Solar panel" means a large, thin panel consisting of an array of solar cells used to convert solar energy into usable forms of thermal and/or electrical energy.

Special Event Sign. See "Temporary and special event signs."

"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.

"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.

"Sports club" means an establishment engaged in operating physical fitness facilities and sports and recreation clubs.

"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.

"Start of construction (floodplain management)" 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 permit 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.

"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 State Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;

(d) The Washington State 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.

"Street" means a public thoroughfare which affords the principal means of access to abutting properties.

"Street banners – decorations" means any street banners, decorations, and/or other similar items located in the city right-of-way.

"Structural alterations" means any change in load or stress of the loaded or stressed members of a building or 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.

"Structure (floodplain management)" means a walled and roofed building or mobile home that is principally above ground.

"Subarea plan" means 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.

"Subdivision" means a division or redivision of land into 10 or more lots, tracts, or parcels for the purpose of sale, lease or transfer of ownership (RCW 58.17.020).

"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.

"Subject property" means the site where an activity requiring a permit or approval under this code will occur.

"Substantial damage (floodplain management)" 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.

"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.

"Substantial improvement (floodplain management)" 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:

(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:

(1) Any project for improvement of a structure to correct pre-cited 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

(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places; provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

"Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

"Suitable guarantee" means an acceptable guarantee to the city to ensure performance and/or warranty of improvements.

"Swale" means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

"Swamp" means a depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic. (Ord. 2955, 2014; Ord. 2870 § 5, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.210 "T" definitions.

"Taxi stands" means establishments engaged in furnishing individual or small group transportation by motor vehicle.

"Temporary and special event signs" means a sign placed on a structure or the ground for a specifically limited period of time as provided in MMC 22C.160.230.

"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.

"Tenant space" means a portion of a structure occupied by a single commercial lease holder with its own public entrance from the exterior of the building or through a shared lobby, atrium, mall, or hallway and separated from other tenant spaces by walls.

"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.

"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.

"Time and temperature sign" means an electronic message sign displaying solely the time and temperature.

"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.

"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.

Tract. See definition for "Lot."

"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.

"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.

"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.

"Transit park and ride lot" means vehicle parking specifically for the purpose of access to a public transit system.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.220 "U" definitions.

"Unified Development Code" or "UDC" means the city of Marysville unified development code (UDC), MMC Title 22.

"Usable marijuana" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.

"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.

"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 ground water 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. 2959 § 4, 2014; Ord. 2852 § 10 (Exh. A), 2011).

22A.020.230 "V" definitions.

"Variance" means 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.

"Vested" means the right to development or continue development in accordance with the laws, rules, and other regulations in effect at the time vesting is achieved.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.240 "W" definitions.

"WAC" means the Washington Administrative Code.

"Wall sign" means any sign attached to or painted on the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall.

"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.

"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.

"Water dependent (floodplain management)" 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.

"WCF equipment facility" means any structure used to contain ancillary equipment for a WCF which includes base stations, cabinets, shelters, a buildout of an existing structure, pedestals and other similar structures.

WCF Height. The height of the antenna support structure shall be measured from the natural undisturbed ground surface below the center of the base of the tower to the top of the tower or, if higher, to the top of the highest antenna or piece of equipment attached thereto.

"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, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

"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.

"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.

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.

"Wetland creation" means the producing or forming of a wetland through artificial means from an upland (dry) site.

"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.

"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.

"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.

"Wetland, in-kind mitigation" means replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

"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.

"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 regulations, it may be part of a comprehensive mitigation program.

"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.

"Wetland, regulated activity" means an activity occurring in, near, or potentially affecting a wetland or wetland buffer that is 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.

"Wetland restoration" means the re-establishment of a viable wetland from a previously filled or degraded wetland site.

"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.

"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.

"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 one and one-half 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.

"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.

"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.

"Wildlife shelter" means a facility for the temporary housing of sick or wounded or displaced wildlife.

"Window sign" means any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior, including signs located inside a building but visible primarily from the outside of the building.

"Wireless communications" means any personal wireless service, which includes, but is not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing devices described in Part 15 of the FCC rules and regulations, e.g., wireless Internet services and paging.

"Wireless communication facility" or "WCF" means any manned or unmanned location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and base station, and may include an antenna support structure. The following developments shall be deemed included in the general definition of a WCF: developments containing new, consolidated, or existing antenna support structures, public antenna support structures, and co-location on existing antenna support structures, co-location onto existing utility pole or cross country electrical distribution tower, attached antennas or antenna arrays, base stations and feed lines whether concealed or nonconcealed. Included in this definition are: noncommercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting WCFs.

"Wireless right-of-way use agreement" or "WROWA" means the initial authorization or renewal of an agreement to construct in, under, over (if permitted by city regulations), or across

public ways of the city and to also provide wireless telecommunications service to persons or areas in the city.

"WSDOT" means the Washington State Department of Transportation (WSDOT). (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.250 "X" definitions.

"Xeriscape" means a landscaping method developed especially for arid or semiarid climates that utilizes water-conserving techniques (as the use of drought-tolerant plants, mulch, and efficient irrigation). (Ord. 2852 § 10 (Exh. A), 2011).

22A.020.260 "Y" definitions.

"Yard" means an open space in front, rear or side of the same lot with a building or proposed building.

"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. 2852 § 10 (Exh. A), 2011).

22A.020.270 "Z" definitions.

"Zero lot line development" allows single-family residences, sharing a common street frontage, to shift to one side of a lot. This means that the same side of each lot may have a zero or reduced setback. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22A.030

ZONES, MAPS AND DESIGNATIONS

Sections:

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22A.030.010 Intent.

The purpose of this chapter and MMC Title 22C 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 MMC Title 22C 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.

It is also the purpose of the classifications in this chapter and MMC Title 22C 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. 2852 § 10 (Exh. A), 2011).

22A.030.020 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
Residential	R (base density in dwellings per acre)
Residential Mobile Home Park	R-MHP
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
Public/Institutional Zone	P/I
Whiskey Ridge	WR (suffix to zone's map symbol)
Small Farms Overlay	SF (suffix to zone's map symbol)
Adult Facilities	AF (suffix to zone's map symbol)
Property-specific development standards	P (suffix to zone's map symbol)

(Ord. 2852 § 10 (Exh. A), 2011).

22A.030.030 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. 2852 § 10 (Exh. A), 2011).

22A.030.040 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. 2852 § 10 (Exh. A), 2011).

22A.030.050 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) Providing and preserving high density, affordable detached single-family and senior housing in the R-MHP zone. This zone is assigned to existing mobile home parks within residential zones which contain rental pads, as opposed to fee simple owned lots, and as such are more susceptible to future development;

(d) Allowing only those accessory and complementary nonresidential uses that are compatible with residential communities; and

(e) 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. 2852 § 10 (Exh. A), 2011).

22A.030.060 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. 2852 § 10 (Exh. A), 2011).

22A.030.070 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. 2852 § 10 (Exh. A), 2011).

22A.030.080 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 and that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2852 § 10 (Exh. A), 2011).

22A.030.090 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.

(2) Use of this zone is appropriate in downtown commercial areas that are designated by the comprehensive plan and that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 2852 § 10 (Exh. A), 2011).

22A.030.100 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. 2852 § 10 (Exh. A), 2011).

22A.030.110 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. 2852 § 10 (Exh. A), 2011).

22A.030.120 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. 2852 § 10 (Exh. A), 2011).

22A.030.130 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. 2852 § 10 (Exh. A), 2011).

22A.030.140 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. 2852 § 10 (Exh. A), 2011).

22A.030.150 Public/institutional zone.

(1) The purpose of the public/institutional (P/I) land use zone is to establish a 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. 2852 § 10 (Exh. A), 2011).

22A.030.160 Whiskey Ridge.

The purpose of the whiskey ridge overlay zone (WR suffix to zone's map symbol) is to create an urban community that provides an attractive gateway into Marysville and becomes a prototype for developing neighborhoods within the city. The WR suffix identifies those areas required to comply with the East Sunnyside/Whiskey Ridge design standards and guidelines, and streetscape design plan. (Ord. 2852 § 10 (Exh. A), 2011).

22A.030.170 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. 2852 § 10 (Exh. A), 2011).

22A.030.180 Adult facilities overlay zone.

The purpose of establishing the adult facilities overlay zone (AF suffix to zone's map symbol) 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. 2852 § 10 (Exh. A), 2011).

Chapter 22A.040

TRANSITION TO MMC TITLE 22, UNIFIED DEVELOPMENT CODE

Sections:

22A.040.010 Purpose.
22A.040.020 General rules of interpretation.
22A.040.030 Existing project permit applications.

22A.040.010 Purpose.

The city of Marysville recognizes that various zoning applications were submitted or approved prior to the effective date of MMC Title 22. This chapter addresses the status of these applications, and how the adoption of MMC Title 22 affects them. (Ord. 2852 § 10 (Exh. A), 2011).

22A.040.020 General rules of interpretation.

Except as otherwise provided, all permits and land use approvals lawfully issued pursuant to repealed provisions of MMC Title 15, 19 or 20 no longer applicable to the property shall remain in full force and effect for two years from the effective date of repeal or zoning reclassification or until the expiration date of the respective permit or approval if the date is less than two years from the effective date of repeal or zoning reclassification.

All conditions associated with a project permit related mitigated determination of nonsignificance (MDNS) issued pursuant to the Washington State Environmental Policy Act (SEPA) remain in effect in all cases unless the MDNS is amended. (Ord. 2852 § 10 (Exh. A), 2011).

22A.040.030 Existing project permit applications.

Project permit applications granted under MMC Title 15, 19 or 20 shall remain in effect until the date specified in the decision or as specified in MMC Title 15, 19 or 20. If no expiration date is specified, the approval shall remain in effect for two years from the effective date of MMC Title 22 for the property. When MMC Title 22 goes into effect, the property may, at the election of the property owner, be developed pursuant to either the existing approval or MMC Title 22 MMC. When the approval expires the property shall be regulated solely by the requirements of MMC Title 22. (Ord. 2852 § 10 (Exh. A), 2011).

Title 22B

COMPREHENSIVE PLAN AND SUBAREA PLANS

Chapters:

22B.010 Comprehensive Plan
22B.020 Subarea Specific Plans

Chapter 22B.010

COMPREHENSIVE PLAN

Sections:
22B.010.010 Comprehensive plan – Preparation.
22B.010.020 Notice and hearing.
22B.010.030 Recommendation to city council.
22B.010.040 Action by city council.
22B.010.050 Effect of comprehensive plan.

22B.010.010 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. 2852 § 10 (Exh. A), 2011).

22B.010.020 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. 2852 § 10 (Exh. A), 2011).

22B.010.030 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. 2852 § 10 (Exh. A), 2011).

22B.010.040 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. 2852 § 10 (Exh. A), 2011).

22B.010.050 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. 2852 § 10 (Exh. A), 2011).

Chapter 22B.020

SUBAREA SPECIFIC PLANS

Sections:

22B.020.010 Subarea specific plans.

22B.020.010 Subarea specific plans.

Neighborhood design plans, neighborhood specific plans and other subarea plans provide detail to the city's comprehensive plan. Upon adoption by the city council they amend and become part of the comprehensive plan. Any subarea specific plan so adopted supersedes and replaces any conflicting previous plans, whether general or specific. (Ord. 2852 § 10 (Exh. A), 2011).

Title 22C

LAND USE STANDARDS

Chapters:

22C.010 Residential Zones
22C.020 Commercial, Industrial, Recreation and Public Institutional Zones
22C.030 Adult Facilities Overlay Zone
22C.040 Mixed Use – Special District
22C.050 Small Farms Overlay Zone
22C.060 Smokey Point Master Plan Area – Design Requirements
22C.070 East Sunnyside/Whiskey Ridge Master Plan Area – Design Requirements
22C.080 Downtown Master Plan Area – Design Requirements
22C.085 88th Street Master Plan – Design Requirements
22C.090 Residential Density Incentives
22C.100 Nonconforming Situations
22C.110 Temporary Uses
22C.120 Landscaping and Screening
22C.130 Parking and Loading
22C.140 Drive-Through Facilities
22C.150 Electric Vehicle Infrastructure and Batteries
22C.160 Signs
22C.170 Mini-Storage Facilities
22C.180 Accessory Structures
22C.190 Home Occupations
22C.200 Day Care Standards
22C.210 Bed and Breakfasts
22C.220 Master Planned Senior Communities
22C.230 Mobile Home Parks
22C.240 Recreational Vehicle Parks
22C.250 Wireless Communication Facilities
22C.260 Low Impact Development
22C.270 Solar Energy Systems

Chapter 22C.010

RESIDENTIAL ZONES

Sections:

22C.010.010 Purpose.
22C.010.020 List of the residential zones.
22C.010.030 Characteristics of residential zones.
22C.010.040 Additional zoning standards.
22C.010.050 Residential zone primary uses.
22C.010.060 Permitted uses.
22C.010.070 Permitted uses – Development conditions.
22C.010.080 Densities and dimensions.
22C.010.090 Densities and dimensions – Development conditions.
22C.010.100 Measurement methods.
22C.010.110 Calculations – Allowable dwelling units.
22C.010.120 Calculations – Site area used for density calculations.
22C.010.130 Lot area – Prohibited reduction.
22C.010.140 Minimum lot area for construction.
22C.010.150 Setbacks – Specific building or use.
22C.010.160 Setbacks – Modifications.
22C.010.170 Setbacks – From regional utility corridors.
22C.010.180 Setbacks – From private roads or access easements.
22C.010.190 Setbacks – From alleys.
22C.010.200 Setbacks – Adjoining half-street or designated arterial.
22C.010.210 Setbacks – Projections allowed.
22C.010.220 Height – Exceptions to limits.
22C.010.230 Lot divided by zone boundary.
22C.010.240 Sight distance requirements.
22C.010.250 Nonresidential land uses in residential zones.
22C.010.255 Residential design requirements – Purpose.
22C.010.260 Residential design requirements – Applicability and interpretations.
22C.010.270 Zero lot line development.
22C.010.280 Cottage housing developments.
22C.010.290 Site and building design standards.
22C.010.300 Commercial, multiple-family, townhome, and group residences – Vehicular access and parking location.
22C.010.310 Small lot single-family dwelling development standards.
22C.010.320 Open space and recreation space required.
22C.010.330 Townhouse open space.
22C.010.340 Maintenance or dedication of open space and recreation space.
22C.010.350 On-site recreation – Fee in lieu of open space or recreation space.
22C.010.360 On-site recreation – Acceptance criteria for fee in lieu of recreation space.
22C.010.370 Storage space and collection points for recyclables.
22C.010.380 Fences.
22C.010.390 Special limitations in the R-12 through R-28 zones.
22C.010.400 Duplex performance and design standards.
22C.010.410 Nonconforming situations.
22C.010.420 Parking and loading.
22C.010.430 Signs.
22C.010.440 Landscaping and screening.
22C.010.450 Planned residential developments.

22C.010.010 Purpose.

The residential zones implement the single-family and higher density residential goals and policies and land use plan map designations of the comprehensive plan. They are intended to preserve land for housing and to provide housing opportunities for individual households. The zones are distinguished by the uses allowed and the intensity of development allowed. The differences in the zoning categories reflect the diversity of residential areas in the city. The limits on the intensity of uses and the development standards promote the desired character for the residential area. The standards are intended to provide certainty to property owners, developers and neighbors of what is allowed in the various categories. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.020 List of the residential zones.

The full names, short names and map symbols of the single-family and higher density residential zones are listed below:

Full Name	Short Name/Map Symbol
Medium density single-family	R-4.5
High density single-family	R-6.5
High density single-family, small lot	R-8
Whiskey Ridge, high density single-family	WR-R-4-8
Low density multiple-family	R-12

Full Name	Short Name/Map Symbol
Medium density multiple-family	R-18
High density multiple-family	R-28
Whiskey Ridge, medium density multiple-family	WR-R-6-18
Residential mobile home park	R-MHP
Small farms overlay	SF (suffix to zone's map symbol)
Property-specific development standards	P (suffix to zone's map symbol)

(Ord. 2852 § 10 (Exh. A), 2011).

22C.010.030 Characteristics of residential zones.

(1) Medium Density Single-Family (R-4.5). The R-4.5 zone is a medium-density single-family residential zone. It allows single-family residences at a density of 4.5 dwelling units per acre. Duplexes are permitted as a conditional use with a maximum density of six dwelling units per acre. The major type of new development will be detached single-family residences. The R-4.5 zone is applied to areas that are designated medium density single-family on the land use plan map of the comprehensive plan.

(2) High Density Single-Family (R-6.5). The R-6.5 zone is a high-density single-family residential zone. It allows single-family residences at a density of 6.5 dwelling units per acre. Duplexes are permitted outright on 7,200-square-foot lots with a maximum density of eight dwelling units per acre. The major type of new development will be detached single-family residences. The R-6.5 zone is applied to areas that are designated high density single-family on the land use plan map of the comprehensive plan.

(3) High Density Single-Family, Small Lot (R-8). The R-8 zone is a high-density single-family, small lot residential zone. It allows single-family residences at a density of eight dwelling units per acre. Duplexes are permitted outright on 7,200-square-foot lots with a maximum density of eight dwelling units per acre. The major type of new development will be detached single-family residences. The R-8 zone is applied to areas that are designated high density single-family – small lot on the land use plan map of the comprehensive plan.

(4) Whiskey Ridge, High Density Single-Family (WR-R-4-8). The WR-R-4-8 zone is a high-density single-family residential zone. It allows single-family residences at a density range of 4.5 to eight dwelling units per acre. Duplexes are permitted outright on 7,200-square-foot lots with a maximum density of eight dwelling units per acre. The major type of new development will be detached single-family residences. The WR-R-4-8 zone is applied to areas that are designated Whiskey Ridge, high density single-family on the land use plan map of the comprehensive plan.

(5) Low Density Multiple-Family (R-12). The R-12 zone is a low density multiple-family residential zone. The major types of new housing development will be attached and detached single-family residential, duplexes, apartments and condominiums. The density is 12 units per acre; the maximum is limited to 18 units per acre.

(6) Medium Density Multiple-Family (R-18). The R-18 zone is a medium density multiple-family residential zone. The major types of new housing development will be attached and detached single-family residential, duplexes, apartments and condominiums. The density is 18 units per acre; the maximum is limited to 27 units per acre.

(7) High Density Multiple-Family (R-28). The R-28 zone is a high density multiple-family residential zone. The major types of new housing development will be attached and detached single-family residential, duplexes, apartments and condominiums. The density is 28 units per acre; the maximum is limited to 36 units per acre.

(8) Whiskey Ridge, Medium Density Multiple-Family (WR-R-6-18). The WR-R-6-18 zone is a medium density multiple-family residential zone. The major types of new housing development will be attached and detached single-family residential, duplexes, apartments and condominiums. The density is six units per acre for detached single-family and 10 units per acre for attached multiple-family; the maximum is limited to 18 units per acre.

(9) Residential Mobile Home Park (R-MHP). The R-MHP zone preserves high density, affordable detached single-family and senior housing. This zone is assigned to existing mobile home parks within residential zones which contain rental pads, as opposed to fee simple owned lots, and as such are more susceptible to future development. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.040 Additional zoning standards.

The standards in this chapter state the allowed uses and development standards for the base zones. Sites with overlay zones, subarea or master plans

are subject to additional standards. The official zoning maps indicate which sites are subject to these additional standards. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.050 Residential zone primary uses.

(1) Permitted Uses (P). Uses permitted in the residential zones are listed in MMC 22C.010.060 with a "P." These uses are allowed if they comply with the development standards and other standards of this chapter.

(2) Conditional Uses (C). Uses that are allowed if approved through the conditional use review process are listed in MMC 22C.010.060 with a "C." These uses are allowed provided they comply with the conditional use approval criteria for that use, the development standards and other standards of this chapter. Uses listed with a "C" that also have a footnote number in the table are subject to the standards cited in the footnote. The conditional use review process and approval criteria are stated in Chapter 22G.010 MMC.

(3) Uses Not Permitted. If no symbol appears in the box at the intersection of the column and the row, the use is not permitted in that district, except for certain temporary uses.

(4) 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 this code and the specific conditions indicated in the development condition with the corresponding number as listed in MMC 22C.010.070.

(5) 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 this code and the specific conditions indicated in the development condition with the corresponding number as listed in MMC 22C.010.070.

(6) All applicable requirements shall govern a use whether or not they are cross-referenced in a section. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.060 Permitted uses.

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

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Accessory Uses:									
Residential accessory uses (1), (9), (10)	P	P	P	P	P	P	P	P	P
Home occupation (5)	P	P	P	P	P13	P13	P13	P13	P
Temporary Lodging:									
Hotel/motel					P	P	P	P	
Bed and breakfast guesthouse (4)		C	C	C	P	P	P	P	
Bed and breakfast inn (4)					P	P	P	P	
Recreation/Cultural Land Uses									
Park/Recreation:									
Park	P16	P16	P16	P16	P16	P16	P16	P16	P16
Recreational vehicle park									C46
Community center	C	C	C	C	C	C	C	C	C
Amusement/Entertainment:									
Sports club					C	C	C	C	
Golf facility (17)	C	C	C	C	P	P	P	P	
Cultural:									
Library, museum and art gallery	C	C	C	C	C	C	C	C	C
Church, synagogue and temple	C	C	C	C	P	P	P	P	C
General Services Land Uses									
Personal Services:									
Funeral home/crematory	C18	C18	C18	C18	C18	C18	C18	C18	C18
Cemetery, columbarium or mausoleum	P24 C19	P24 C19	P24 C19	P24 C19	P24 C19	P24 C19	P24 C19	P24 C19	P24 C19
Day care I	P20	P20	P20	P20	P20	P20	P20	P20	P20
Day care II	C25	C25	C25	C25	C	C	C	C	C25
Stable	C	C	C	C					
Kennel or cattery, hobby	C	C	C	C	C	C	C	C	
Electric vehicle (EV) charging station (38), (39)	P	P	P	P	P	P	P	P	
EV rapid charging station (40), (41), (42)					P	P	P	P	
Health Services:									
Medical/dental clinic					C	C	C	C	
Education Services:									
Elementary, middle/junior high, and senior high (including public, private and parochial)	C	C	C	C	C	C	C	C	C
Commercial school	C21	C21	C21	C21	C21	C21	C21	C21	
School district support facility	C23	C23	C23	C23	C23	C23	C23	C23	
Interim recycling facility	P22	P22	P22	P22	P22	P22	P22	P22	
Vocational school									

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Government/Business Service Land Uses									
Government Services:									
Public safety facilities, including police and fire	C26	C26	C26	C26	C26	C26	C26	C26	C26
Utility facility	P	P	P	P	P	P	P	P	P
Private storm water management facility	P	P	P	P	P	P	P	P	P
Public storm water management facility	P	P	P	P	P	P	P	P	P
Business Services:									
Self-service storage (31)					C27	C27	C27	C27	
Professional office					C	C	C	C	
Automotive parking	P29	P29	P29	P29	P29	P29	P29	P29	
Model house sales office	P47	P47	P47	P47					
Wireless communication facility (28)	P C	P C	P C	P C	P C	P C	P C	P C	P C
State-Licensed Marijuana Facilities:									
Marijuana processing facility – Indoor only (48)									
Marijuana production facility – Indoor only (48)									
Marijuana retail facility (48)									
Retail/Wholesale Land Uses									
Forest products sales	P32	P32	P32	P32					
Agricultural crop sales	P32	P32	P32	P32					
Resource Land Uses									
Agriculture:									
Growing and harvesting crops	P34	P34	P34	P34					
Raising livestock and small animals	P35	P35	P35	P35					
Forestry:									
Growing and harvesting forest products	P34	P34	P34	P34					
Fish and wildlife management:									
Hatchery/fish preserve (33)	C	C	C	C					
Aquaculture (33)	C	C	C	C					
Regional Land Uses									
Regional storm water management facility	C	C	C	C	C	C	C	C	C
Nonhydroelectric generation facility	C	C	C	C	C	C	C	C	C
Transit park and pool lot	P	P	P	P	P	P	P	P	
Transit park and ride lot	C	C	C	C	C	C	C	C	
School bus base	C36	C36	C36	C36	C36	C36	C36	C36	

Specific Land Use	R-4.5	R-6.5	R-8	WR R-4-8	R-12	R-18	R-28	WR R-6-18	R-MHP
Racetrack	C37	C37	C37	C37	C37	C37	C37	C37	
College/university	C	C	C	C	C	C	C	C	

(Ord. 2959 § 5, 2014; Ord. 2898 § 7, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.070 Permitted uses – Development conditions.

(1) Accessory dwelling units must comply with development standards in Chapter 22C.180 MMC. Accessory dwelling units in the MHP zone are only allowed on single lots of record containing one single-family detached dwelling.

(2) Limited to three residents per the equivalent of each minimum lot size or dwelling units per acre allowed in the zone in which it is located.

(3) Only as part of a planned residential development (PRD) proposal, and subject to the same density as the underlying zone.

(4) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter 22C.210 MMC.

(5) Home occupations are subject to the requirements and standards contained in Chapter 22C.190 MMC.

(6) Subject to cottage housing provisions set forth in MMC 22C.010.280.

(7) Factory-built dwelling units shall comply with the following standards:

(a) A factory-built house must be inspected at least two times at the factory by the State Building Inspector during the construction process, and must receive an approval certifying that it meets all requirements of the International Building Code. At the building site, the city building official will conduct foundation, plumbing and final inspections.

(b) A factory-built house cannot be attached to a metal frame allowing it to be mobile. All such structures must be placed on a permanent foundation at the building site.

(8) Permitted outright in the R-6.5, R-8, and WR-R-4-8 zones on minimum 7,200-square-foot lots. A conditional use permit is required for the R-4.5 zone, and the minimum lot size must be 12,500 square feet. Duplexes must comply with the comprehensive plan density requirements for the underlying land use designation.

(9) A garage sale shall comply with the following standards:

(a) No residential premises shall have more than two such sales per year and no such sale shall continue for more than six days within a 15-day period.

(b) Signs advertising such sales shall not be attached to any public structures, signs or traffic control devices, nor to any utility poles. All such signs shall be removed 24 hours after the sale is completed.

A garage sale complying with the above conditions shall be considered as being an allowable accessory use to all residential land uses. A garage sale violating one or more of the above conditions shall be considered as being a commercial use and will be disallowed unless it complies with all requirements affecting commercial uses.

(10) Residential accessory structures must comply with development standards in Chapter 22C.180 MMC.

(11) Manufactured homes must:

(a) Be no more than five years old, as evidenced by the date of manufacture recorded on the HUD data plate;

(b) Be set on a permanent foundation, as specified by the manufacturer, enclosed with an approved concrete product from the bottom of the home to the ground which may be either load-bearing or decorative;

(c) Meet all design standards applicable to all other single-family homes in the neighborhood in which the manufactured home is to be located.

(12) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.

(13) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.

(14) No more than one single-family detached or duplex dwelling is allowed per lot except in planned residential developments, through the provisions of Chapter 22G.080 MMC, using the binding site plan (BSP) process outlined in Chapter 22G.100 MMC, and designated on the face of the BSP, for multiple single-family detached dwellings on a single parcel; or accessory dwelling units through the provisions of Chapter 22C.180 MMC.

(15) Subject to Chapter 22C.220 MMC, Master Planned Senior Communities.

(16) The following conditions and limitations shall apply, where appropriate:

(a) Parks are permitted in residential and mixed use zones when reviewed as part of a subdivision, mobile/manufactured home park, or multiple-family development proposal; otherwise, a conditional use permit is required;

(b) Lighting for structures and fields shall be directed away from residential areas; and

(c) Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

(17) Golf facilities shall comply with the following:

(a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

(b) Restaurants are permitted as an accessory use to a golf course.

(18) Only as an accessory to a cemetery.

(19) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

(20) Only as an accessory to residential use and subject to the criteria set forth in Chapter 22C.200 MMC.

(21) Only as an accessory to residential use, provided:

(a) Students are limited to 12 per one-hour session;

(b) All instruction must be within an enclosed structure; and

(c) Structures used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.

(22) Limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.

(23) Only when adjacent to an existing or proposed school.

(24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.

(25) Daycare IIs must be located on sites larger than one-half acre and are subject to minimum standards identified in Chapter 22C.200 MMC for daycare I facilities. Parking facilities and loading areas shall be located to the rear of buildings or be constructed in a manner consistent with the surrounding residential character. Evaluation of site suitability shall be reviewed through the conditional use permit process.

(26) Public safety facilities, including police and fire, shall comply with the following:

(a) All buildings and structures shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

(b) Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such street.

(27) Accessory to an apartment development of at least 12 units, provided:

(a) The gross floor area in self-service storage shall not exceed 50 percent of the total gross floor area of the apartment dwellings on the site;

(b) All outdoor lights shall be deflected, shaded and focused away from all adjoining property;

(c) The use of the facility shall be limited to dead storage of household goods;

(d) No servicing or repair of motor vehicles, boats, trailers, lawn mowers or similar equipment;

(e) No outdoor storage or storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals;

(f) No residential occupancy of the storage units;

(g) No business activity other than the rental of storage units to the apartment dwellings on the site; and

(h) A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.

(28) All WCFs and modifications to WCFs are subject to Chapter 22C.250 MMC including, but not limited to, the siting hierarchy, MMC 22C.250.060. WCFs may be a permitted use or a conditional use subject to MMC 22C.250.040.

(29) Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:

(a) They are located on existing parking lots for churches, schools, or other permitted nonresidential uses which have excess capacity available during commuting hours; and

(b) The site is adjacent to a designated arterial that has been improved to a standard acceptable to the department.

(30) Model Homes.

(a) The community development director may approve construction of model homes subject to the following conditions:

(i) No model home shall be constructed without the issuance of a building permit;

(ii) In no event shall the total number of model homes in a preliminary subdivision be greater than nine;

(iii) A hard-surfaced roadway to and abutting all model homes shall be constructed to standards determined by the city engineer or designee;

(iv) Operational fire hydrant(s) must be available in accordance with the International Fire Code;

(v) Submittal of a site plan, stamped by a registered civil engineer or licensed surveyor, delineating the location of each structure relative to existing and proposed utilities, lot lines, easements, roadways, topography and critical areas;

(vi) Submittal of building permit applications for each of the proposed structures;

(vii) Approval of water, sewer and storm sewer extension plans to serve the proposed structures; and

(viii) Execution of an agreement with the city saving and holding it harmless from any damages, direct or indirect, as a result of the approval of the construction of model homes on the site.

(b) Prior to occupancy of any model home, the final plat of the subject subdivision shall be approved and recorded.

(31) Any outdoor storage areas are subject to the screening requirements of the landscape code.

(32) Subject to approval of a small farms overlay zone.

(33) May be further subject to the provisions of the Marysville shoreline master program.

(34) Only allowed in conjunction with the small farms overlay zone.

(35) Provided that the property has received approval of a small farms overlay designation, or is larger than one acre in size.

(36) Only in conjunction with an existing or proposed school.

(37) Except racing of motorized vehicles.

(38) Level 1 and Level 2 charging only.

(39) Allowed only as an accessory use to a principal outright permitted use or permitted conditional use.

(40) The term "rapid" is used interchangeably with "Level 3" and "fast charging."

(41) Only "electric vehicle charging stations – restricted" as defined in Chapter 22A.020 MMC.

(42) Rapid (Level 3) charging stations are required to be placed within a parking garage.

(43) One single-family detached dwelling per existing single lot of record. Manufactured homes on single lots must meet the criteria outlined in subsection (11) of this section.

(44) Used as a permanent residence in an established MHP or RV park; provided, that utility hookups in MHPs meet current standards for MHPs or RV parks.

(45) MHPs shall fulfill the requirements of Chapter 22C.230 MMC.

(46) Recreational vehicle parks are subject to the requirements and conditions of Chapter 22C.240 MMC.

(47) Model house sales offices are subject to the requirements of MMC 22C.110.020(3).

(48) No person or entity may produce, grow, manufacture, process, accept donations for, give away or sell marijuana or marijuana-infused products within residential zones in the city. (Ord. 2959 § 6, 2014; Ord. 2898 § 8, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.080 Densities and dimensions.

(1) Interpretation of Table.

(a) Subsection (2) of this section contains 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 22C.010.100 through 22C.010.250.

(b) The density and dimension table is arranged in a matrix format and is delineated into the residential use categories.

(c) Development standards are listed down the left side of the table, 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 set forth in MMC 22C.010.090. 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.

(2) General Densities and Dimension Standards.

	R-4.5	R-6.5	R-8	WR-R-4-8 (16)(17)	R-12 (13)	R-18 (13)	R-28 (13)	WR-R-6-18 (13)(16)(17)
Density: Dwelling unit/acre (6)	4.5 du/ac	6.5 du/ac	8 du/ac	4.5 du/ac	12 du/ac	18 du/ac	28 du/ac	6 du/ac (detached sf) 10 du/ac (attached multifamily)
Maximum density: Dwelling unit/acre (1)	–	–	–	8 du/ac	18 du/ac	27 du/ac	36 du/ac	18 du/ac
Minimum street setback (3) (15)	20 ft (8)	20 ft (8)	20 ft (8)	20 ft (8)	20 ft	25 ft	25 ft	20 ft
Minimum side yard setback (3)	5 ft (10)	5 ft (10)	5 ft (10)	5 ft (10, 11, 12)	10 ft (10, 11, 12)	10 ft (10, 11, 12)	10 ft (10)	10 ft (10, 11, 12)
Minimum rear yard setback (3)	20 ft	20 ft	20 ft	20 ft	25 ft	25 ft	25 ft	25 ft
Base height	30 ft	30 ft	30 ft	30 ft	35 ft (4)	45 ft (4)	45 ft (4)	35 ft (4)
Maximum building coverage: Percentage (5)	35%	35%	50%	50%	50%	50%	50%	40%
Maximum impervious surface: Percentage (5)	45%	45%	50%	50%	70%	70%	75%	70%
Minimum lot area	5,000 sq ft	5,000 sq ft	4,000 sq ft	5,000 sq ft	–	–	–	–
Minimum lot area for duplexes (2)	12,500 sq ft	7,200 sq ft	7,200 sq ft	7,200 sq ft	–	–	–	–
Minimum lot width (3)	60 ft	50 ft	40 ft	40 ft	70 ft	70 ft	70 ft	70 ft
Minimum lot frontage on cul-de-sac, sharp curve, or panhandle (14)	20 ft	20 ft	20 ft	20 ft	–	–	–	–

(Ord. 2852 § 10 (Exh. A), 2011).

22C.010.090 Densities and dimensions – Development conditions.

(1) Maximum Density – Dwelling Unit/Acre.

(a) The maximum density for R-12, R-18, R-28, WR-R-4-8 and WR-R-6-18 zones may be achieved only through the application of residential density incentive provisions outlined in Chapter 22C.090 MMC.

(b) The maximum net density for the single-family zones is the same as the base density; provided, that for PRD developments the maximum density may be increased by up to 20 percent through the application of residential density incentive provisions outlined in Chapter 22C.090 MMC.

(2) The minimum lot sizes for duplexes apply to lots or parcels which existed on or before the effective date of the ordinance codified in this chapter. All new duplex lots created through the subdivision or short subdivision process shall be a minimum of 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, R-8, and WR-R-4-8 zones).

(3) These standards may be modified under the provisions for zero lot line and townhome developments.

(4) Base Height.

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

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

dwellings, when single-family is the predominant adjacent land use.

(5) Applies to Each Individual Lot. Building coverage and impervious surface area standards for:

(a) Regional uses shall be established at the time of permit review; or

(b) Nonresidential uses in residential zones shall comply with MMC 22C.010.250.

(6) Density – Dwelling Unit/Acre.

(a) The densities listed for the single-family zones (R-4.5, R-6.5, R-8) and single-family development in the Whiskey Ridge zones (WR-R-4-8, WR-R-6-18) are maximum net densities.

(b) Mobile home parks shall be allowed a maximum density of eight dwelling units per acre, unless located in the R-4.5 or R-6.5 zones, in which case they are limited to the density of the underlying zone.

(7) The standards of the R-4.5 zone shall apply if a lot is less than 15,000 square feet in area.

(8) On a case-by-case basis, the street setback may be reduced to 10 feet; provided, that at least 20 linear feet of driveway are provided between any garage, carport, or other fenced parking area and the street property line, or the lot takes access from an alley. The linear distance shall be measured in a straight line from the nearest point of the garage, carport or fenced area to the access point at the street property line. In the case of platted lots, no more than two consecutive lots may be reduced to 10 feet.

(9) Residences shall have a setback of at least 50 feet from any property line if adjoining an agricultural zone either within or outside the city limits.

(10) For townhomes or apartment developments, the setback shall be the greater of:

(a) Twenty feet along any property line abutting R-4.5 through R-8, and WR-R-4-8 zones; or

(b) The average setback of the R-4.5 through R-8 zoned and platted single-family detached dwelling units from the common property line separating said dwelling units from the adjacent townhome or apartment development, provided the required setback applied to said development shall not exceed 60 feet. The setback shall be measured from said property line to the closest point of each single-family detached dwelling unit, excluding projections allowed per MMC 22C.010.210 and accessory structures existing at the time the townhome or apartment development receives approval by the city.

(11) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.

(12) Townhome setbacks are reduced to five feet on side yard setbacks provided the buildings meet a 10-foot separation between structures.

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

(14) Provided that the front yard setback shall be established as the point at which the lot meets the minimum width requirements. On a case-by-case basis, the street setback may be reduced to the minimum of 20 feet; provided, that the portion of the structure closest to the street is part of the "living area," to avoid having the garage become the predominant feature on the lot.

(15) Subject to MMC 22A.020.130, subsection (1)(a) of the definition of "lot lines."

(16) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.

(17) Projects with split zoning (two or more distinct land use zones) may propose a master site plan to density average at the zone edge or modify the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition between land uses and zones. Approval is at the discretion of the community development director. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.100 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 22C.010.200;

(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. 2852 § 10 (Exh. A), 2011).

22C.010.110 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 0.50 or above shall be rounded up; and

(b) Fractions below 0.50 shall be rounded down. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.120 Calculations – Site area used for density calculations.

(1) Critical 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 density transfer provisions outlined in MMC 22E.010.360.

(2) The net project area of a multiple-family or single-family site may be used in the calculation of allowed residential density. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.130 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. 2852 § 10 (Exh. A), 2011).

22C.010.140 Minimum lot area for construction.

Except as provided for in Chapter 22G.080 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 August 10, 1969, 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.150 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. 2852 § 10 (Exh. A), 2011).

22C.010.160 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.

(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.

(3) When a base station or WCF equipment is proposed for placement on private property abutting ROW, the setback may be administratively reduced, provided the application demonstrates good cause for such reduction and adequate area for screening and landscaping is provided. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.170 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. 2852 § 10 (Exh. A), 2011).

22C.010.180 Setbacks – From private roads or access easements.

Structures may be built to five feet of the property line on lots adjacent to a private road or access easement. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.190 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.

(3) Rear setbacks for detached accessory structures located in Planning Area 1 "Downtown Neighborhood" may be reduced as set forth in MMC 22C.180.020(2). (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.200 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. 2852 § 10 (Exh. A), 2011).

22C.010.210 Setbacks – Projections allowed.

Projections may extend into required setbacks as follows:

(1) Fireplace structures including eaves and factory-built garden or bay windows may project into any setback, provided such projections are:

(a) Limited to two per facade;

(b) Not wider than 10 feet; and

(c) Not more than 24 inches into a side setback or 30 inches into a front or rear setback;

(2) Uncovered porches and decks, including stairs, which exceed 30 inches above the finished grade may project:

(a) Eighteen inches into side setbacks; and

(b) Five feet into the front or rear setback;

(3) Uncovered porches and decks not exceeding 30 inches above the finished grade 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. 2852 § 10 (Exh. A), 2011).

22C.010.220 Height – Exceptions to limits.

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

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

(2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.230 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 this chapter and Chapter 22C.020 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.240 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 community development 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. 2852 § 10 (Exh. A), 2011).

22C.010.250 Nonresidential land uses in residential zones.

Except for utility facilities and regional land uses listed in MMC 22C.010.060, all nonresidential uses located in residential zones shall be subject to the following requirements:

(1) Building coverage shall not exceed:

(a) Fifty percent of the site in the R-4.5, R-6.5, R-8 and WR-R-4-8 zones.

(b) Sixty percent of the site in the R-12, R-18, R-28 and WR-R-6-18 zones.

(2) Impervious surface coverage shall not exceed:

(a) Seventy percent of the site in the R-4.5, R-6.5, R-8 and WR-R-4-8 zones.

(b) Eighty percent of the site in the R-12, R-18, R-28 and WR-R-6-18 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) of this section.

(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. 2852 § 10 (Exh. A), 2011).

22C.010.255 Residential design requirements – Purpose.

MMC 22C.010.255 through 22C.010.400 apply to new multifamily residential and high density (eight-plus du/acre) single-family development. The purpose of these sections 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) Reinforce streets as public places that encourage pedestrian and bicycle travel;

(6) Reduce opportunities for crimes against persons and property;

(7) Minimize land use conflicts and adverse impacts;

(8) Provide roadway and pedestrian connections between residential and commercial areas;

(9) Provide public places and open space networks to create gateways, gathering places, and recreational opportunities that enhance the natural and built environment;

(10) Minimize the rate of crime associated with persons and property and provide for the highest standards of public safety through the implementation of crime prevention through environmental design (CPTED) principles in design review. (Ord. 2852 § 10 (Exh. A), 2011).*

*Code reviser's note: Ord. 2852 added this section as 22C.010.250. It has been editorially renumbered to avoid duplication.

22C.010.260 Residential design requirements – Applicability and interpretations.

(1) Applicability.

(a) These design standards apply to all new planned residential developments (PRD) in any zone, multifamily structures in any zone and residential development within the following zones: high density multiple-family (R-28), medium density multiple-family (R-18), low density multiple-family (R-12), high density single-family, and small lot (R-8).

(b) The standards specified in the following sections shall be applied by the city to individual building permits for single-family residences, MMC 22C.010.310; duplexes, MMC 22C.010.400; and accessory uses, Chapter 22C.180 MMC; provided, that the applicable standards shall be those in effect on the date that the city approves the preliminary subdivision, short subdivision, or binding site plan, whichever is applicable, unless the applicant opts to have the city apply the standards that may have been revised by the city after such date.

(c) The following activities shall be exempt from these standards:

(i) Construction activities which do not require a building permit;

(ii) Interior remodels of existing structures;

(iii) Modifications or additions to existing multifamily 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.

(d) 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. 2852 § 10 (Exh. A), 2011).

22C.010.270 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. 2852 § 10 (Exh. A), 2011).

22C.010.280 Cottage housing developments.

(1) Purpose. The purpose of this section is to:

(a) Provide a housing type that responds to changing household sizes and ages (e.g., retirees, small families, single-person households);

(b) Provide opportunities for ownership of small, detached units within a single-family neighborhood;

(c) Encourage creation of more usable space for residents of the development through flexibility in density and lot standards;

(d) Support the growth management goal of more efficient use of urban residential land; and

(e) Provide guidelines to ensure compatibility with surrounding uses.

(2) Applicability. Cottage housing developments are allowed in the following areas: residentially zoned properties in Downtown Planning Area 1; single-family zones where properties are encumbered by at least 35 percent critical areas and

associated buffers; and single-family zoned parcels adjacent, including across the street in some cases, to multifamily, commercial and industrial zoned parcels, as a transition to multifamily, commercial and industrial uses.

(3) Accessory dwelling units shall not be permitted in cottage housing developments.

(4) Density and Minimum Lot Area.

(a) Cottage housing developments shall contain a minimum of four cottages arranged on at least two sides of a common open space or configuration as otherwise approved by the director, with a maximum of 12 cottages per development.

(b) On a lot to be used for a cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cottage density.

(c) Cottage housing developments shall be allowed a density not to exceed two times the base density allowed in the underlying zone.

(5) Height Limit and Roof Pitch.

(a) The height limit permitted for structures in cottage housing developments shall be 18 feet.

(b) The ridge of pitched roofs with a minimum slope of six to 12 (6:12) may extend up to 28 feet. The ridge of pitched roofs with a minimum slope of four to 12 (4:12) may extend up to 23 feet. All parts of the roof above 18 feet shall be pitched.

(6) Lot Coverage and Floor Area.

(a) The maximum lot coverage permitted for buildings in cottage housing developments shall not exceed 40 percent and the maximum total lot coverage shall not exceed 60 percent.

(b) The maximum main floor area is 800 square feet.

(c) The total floor area of each cottage shall not exceed either one and one-half times the area of the main level or 1,200 square feet, whichever is less. Enclosed space in a cottage located either above the main level and more than 12 feet above finished grade, or below the main level, shall be limited to no more than 50 percent of the enclosed space of the main level, or 400 square feet, whichever is less. This restriction applies regardless of whether a floor is proposed in the enclosed space, but shall not apply to attic or crawl spaces (less than six feet in height).

(d) Attached garages shall be included in the calculation of total floor area.

(e) Areas that do not count as total floor area are:

(i) Unheated storage space located under the main floor of the cottage.

(ii) Attached roofed porches.

(iii) Detached garages or carports.

(iv) Spaces with the ceiling height of six feet or less measured to the exterior walls, such as a second floor area under the slope of a roof.

(f) The total square foot area of a cottage dwelling unit may not be increased. A note shall be placed on the title to the property for the purpose of notifying future property owners that any increase in the total square footage of a cottage is prohibited for the life of the cottage or duration of city cottage regulations.

(7) Yards.

(a) Front Yards. The front yard for cottage housing developments shall be 10 feet.

(b) Rear Yards. The minimum rear yard for a cottage housing development shall be 10 feet. If abutting an alley the rear yard setback may be reduced to five feet.

(c) Side Yards. The minimum required side yard for a cottage housing development shall be five feet. When there is a principal entrance along a side facade, the side yard shall be no less than 10 feet along that side for the length of the pedestrian route. This 10-foot side yard shall apply only to a height of eight feet above the access route.

(d) Interior Separation for Cottage Housing Developments. There shall be a minimum separation of six feet between principal structures. When there is a principal entrance on an interior facade of either or both of the facing facades, the minimum separation shall be 10 feet.

(8) Required Open Space.

(a) Quantity of Open Space. A minimum of 400 square feet per unit of landscaped open space is required. This quantity shall be allotted as follows:

(i) A minimum of 200 square feet per unit shall be private usable open space (setbacks and common open space shall not be counted as private open space); and

(ii) A minimum of 150 square feet per dwelling unit shall be provided as common open space. (Setbacks and private open space shall not be counted as common open space.)

(b) Critical areas and buffers shall not be counted as open space.

(c) Each house shall abut its private open space. A fence or hedge not to exceed three feet may separate private open space from common open space.

(9) Development Standards. Cottages shall be oriented around and have their main entry from the common open space.

(a) Private usable open space shall be provided in one contiguous area with a minimum area of 200 square feet. No horizontal dimension of the open space shall be less than 10 feet and shall be oriented toward the common open space, as much as possible.

(b) Required common open space shall be provided at ground level in one contiguous parcel. Each cottage shall abut the common open space, and the common open space shall have cottages abutting at least two sides.

(c) The minimum horizontal dimension for common open space shall be 10 feet.

(d) Each cottage unit shall have a covered porch or entry of at least 60 square feet with a minimum dimension of six feet on any side.

(e) Secondary entrances facing a street or sidewalk shall have a five-foot by five-foot porch.

(f) Separation of Identical Building Elevations. Units of identical elevation types must be separated by at least two different elevations. This will result in at least three different elevation plans per cluster. No two adjacent structures shall be built with the same building size or orientation (reverse elevations do not count as different building elevations), facade, materials, or colors.

(g) Variety in Building Design. A variety of building elements and treatments of cottages and accessory structures must be incorporated. Structures must include articulation, change in materials or texture, windows, or other architectural feature as shown in the city's design standards. No blank walls are allowed.

(h) Five-foot-wide pedestrian pathways (sidewalks) must be included to provide for movement of residents and guests from parking areas to homes and other amenities.

(10) Parking shall be:

(a) Located on the cottage housing development property.

(b) Located in clusters of not more than five adjoining spaces.

(c) Screened from public streets and adjacent residential uses by landscaping or architectural screening.

(d) Parking is allowed between or adjacent to structures only when it is located toward the rear of the principal structure and is served by an alley or private driveway.

(e) Off-street parking requirements are as follows:

(i) Units under 700 square feet: one space per unit;

(ii) Units between 700 and 1,000 square feet: one and one-half spaces per unit; and

(iii) Units over 1,000 square feet: two spaces per unit.

At least one parking stall per dwelling will be enclosed or covered.

(f) Access to parking shall be from the alley when property abuts a platted alley improved to the city's engineering design and development standards or when the director determines that alley access is feasible and desirable to mitigate parking access impacts.

(g) Not located in the front yard.

(11) Covered parking areas should be located so their visual presence is minimized, and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.

(a) For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.

(b) Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which precludes the use of the parking spaces for vehicles is prohibited.

(c) The design of carports must include rooflines similar and compatible to those of the dwelling units within the development.

(12) Screening Requirements.

(a) Boundaries between cottage dwellings and neighboring properties shall be screened with landscaping to reduce the appearance of bulk or intrusion onto adjacent properties, or otherwise treated (i.e., through setbacks or architectural techniques) to meet the intent of this section.

(b) Common waste and other storage receptacles shall not be placed in the front yard setback area.

(c) Common waste and other storage receptacles shall be architecturally screened and/or screened with landscaping so as to mask their appearance to residents, adjacent property owners, and the public rights-of-way.

(13) Requests for Modifications to Standards. The community development director may approve minor modifications to the general parameters and design standards set forth in this chapter, provided the following criteria are met:

(a) The site is constrained due to unusual shape, topography, easements or sensitive areas.

(b) The modification is consistent with the objectives of this chapter.

(c) The modification will not result in a development that is less compatible with neighboring land uses. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.290 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 and elevations 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 multifamily developments, whereas only subsections (2) and (4) of this section apply to single-family and condominium developments.

(c) The crime prevention through environmental design (CPTED) provisions of this section apply to all new multifamily developments of 10 or more units and planned residential developments.

(2) Relationship of Buildings to Site and Street Front.

(a) The site shall be oriented and designed to create an attractive street edge and accommodate pedestrian access. The following provisions apply:

(i) The street edge shall be defined with buildings, landscaping or other features.

(ii) Primary building entrance(s) shall face the street unless it is not feasible due to parcel size, topography, environmental conditions, or other factors as determined by the director, and alternate design elements are incorporated into the facade which enliven the streetscape. Alternatively, for multifamily projects, building entries that face onto a courtyard which is oriented towards the street are acceptable.

(iii) Buildings with individual ground floor entries should face the street to the extent possible. Alternatively, for multifamily projects, configurations where entries face onto a courtyard or open space that is oriented to the street are acceptable.

(iv) Buildings shall provide windows that face the street to provide "eyes on the street" for safety. To meet this requirement, at least 15 percent of the facade facing the street shall be occupied by transparent windows or doors.

(v) Provide for a sidewalk at least five feet wide if there is not space in the public right-of-way.

(vi) 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.

(b) The development shall provide site development features that are visible and pedestrian-accessible from the street. These features could include plazas, open space areas, recreational areas, architectural focal points, and access lighting.

(c) The development shall create a well-defined streetscape to allow for the safe movement of pedestrians.

(d) For multifamily residences, no more than 50 percent of the total parking spaces may be located between the building and the primary public street (street from which primary access is obtained) unless it is not feasible due to parcel size, topography, environmental conditions, or other facts as determined by the director. Where the property fronts on more than one public street, this provision applies to only one street frontage.

(e) For multifamily residences, parking lots shall not be located at the intersection of public streets unless no feasible alternative location exists.

Figure 1 – Illustration of facade transparency requirements which enhance safety and the relationship to the street front.

(3) Relationship of Buildings 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. Solar access of the subject and adjacent properties should be considered in building design and location.

(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 22C.120 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, berms 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 storm water 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 ever-

green shrubs no more than four feet in height and/or ground cover in accordance with the city of Marysville landscape standards (Chapter 22C.120 MMC) and Marysville 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) Exterior lighting shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. Appropriate lighting levels shall be provided in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, circulation areas, and other open space areas, in order to ensure safety and security; enhance and encourage evening activities; and provide a distinctive character to the area. New developments shall provide a lighting site plan which identifies lighting equipment, locations and standards, and implements the following design standards:

(i) All public areas shall be lighted with average minimum and maximum levels as follows:

(A) Minimum (for low or nonpedestrian and vehicular traffic areas) of one-half foot candle;

(B) Moderate (for moderate or high volume pedestrian areas) of one to two foot candles; and

(C) Maximum (for high volume pedestrian areas and building entries) of four foot candles.

(ii) Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.

(iii) Parking lot lighting shall be subject to the provisions set forth in MMC 22C.130.050(3)(d).

(iv) Pedestrian-scale lighting (light fixtures no taller than 15 feet) is encouraged in areas with high anticipated pedestrian activity. All fixtures over 15 feet in height shall be fitted with a full cut-off shield, be dark sky rated, and mounted no more than 25 feet above the ground with lower fixtures preferable so as to maintain a human scale. Lighting shall enable pedestrians to identify a face 45 feet away in order to promote safety.

(v) Light levels at the property line should not exceed 0.1 foot candles (fc) adjacent to business properties, and 0.05 foot candles adjacent to residential properties. All building lights shall be directed onto the building itself and/or the ground immediately adjacent to it. The light emissions should not be visible above the roofline of the building. Light fixtures other than traditional cobra heads are encouraged.

(vi) Uplighting on trees and provisions for seasonal lighting are encouraged.

(vii) Accent lighting on architectural and landscape features is encouraged to add interest and focal points.

(5) Site Design Utilizing Crime Prevention through Environmental Design (CPTED) Principles. Development that is subject to this section shall incorporate the following CPTED strategies into building design and site layout:

(a) Access Control. Guidance of people coming and going from a building or site by placement of real and perceived barriers. Provision of natural access control limits access and increases natural surveillance to restrict criminal intrusion, especially into areas that are not readily observable.

(b) Surveillance. Placement of features, uses, activities, and people to maximize visibility. Provision of natural surveillance helps to create environments where there is plenty of opportunity for people engaged in their normal behavior to observe the space around them.

(c) Territoriality/Ownership. Delineation of private space from semi-public and public spaces that creates a sense of ownership. Techniques that reduce the perception of areas as "ownerless" and, therefore, available for undesirable uses.

Examples of ways in which a proposal can comply with CPTED principles are outlined in the CPTED Guidelines for Project Design and Review, prepared by the city.

(6) Building Design – Human-Scale Standards. The human-scale standards are intended to encourage the use of building components that relate to the size of the human body, and to add visual interest to buildings. "Human scale" addresses the relationship between a building and the human body. Generally, buildings attain a good human scale when they feature elements or characteristics that are sized to fit human activities, such as doors, porches, and balconies. A minimum of three of the following human-scale building elements shall be incorporated into the new development:

(a) Balconies or decks in upper stories, at least one balcony or deck per upper floor on the facades facing streets, provided they are integrated into the architecture of the building;

(b) Bay windows or other window treatments that extend out from the building face;

(c) At least 150 square feet of pedestrian-oriented space for each 100 lineal feet of building facade;

(d) First floor individual windows, generally less than 32 square feet per pane and separated from the windows by at least a six-inch molding;

(e) A porch or covered entry;

(f) Spatially defining building elements, such as a trellis, overhang, canopy, or other element, that defines space that can be occupied by people;

(g) Upper story setbacks, provided one or more of the upper stories are set back from the face of the building at least six feet;

(h) Composing smaller building elements near the entry of pedestrian-oriented street fronts of large buildings;

(i) Landscaping components that meet the intent of these standards; and/or

(j) The director may consider other methods to provide human-scale elements not specifically listed here. The proposed methods must satisfy the intent of these standards.

Figure 2 – An example of balconies that have been integrated into the architecture of the building.

(7) Building Design – Architectural Scale. The architectural scale standards are intended to encourage compatibility of structures with nearby structures, to help the building fit in with its context, and to add visual interest to buildings.

(a) Vertical Facade Modulation. All new residential buildings shall provide modulation (measured and proportioned inflexion or setback in a building's facade) on facades facing a street, common open space, public area, or common parking area as follows:

(i) Buildings with facades that are 30 feet or longer shall provide vertical modulation of the exterior wall that extends through all floors; provided, that where horizontal modulation is used different stories may be modulated at different depths.

(ii) The minimum modulation depth shall be five feet and the minimum modulation width for each modulation shall be 10 feet. On facades that are 100 feet or longer, the minimum depth of modulation shall be 10 feet and the minimum width for each modulation shall be 20 feet.

(iii) The minimum modulation depth identified in subsection (7)(a)(ii) of this section may be reduced to two feet if tied to a change in color or building materials, and/or roofline modulation as defined in subsection (7)(c) of this section.

(iv) The director may consider departures from these standards, provided the proposed treatment meets or exceeds the intent of these standards.

(b) Facade Articulation. All new residential buildings shall include two of the following articulation features at intervals of no more than 30 feet along all facade facing a street, common open space, public area, and common parking areas:

(i) Repeating distinctive window patterns at intervals of no more than 30 feet (see Figure 3 below for an example).

(ii) Horizontal modulation (upper level step-backs) (see Figure 4). To qualify for this measure, the minimum horizontal modulation shall be five feet.

(iii) Balconies that are recessed or projected from the facade at least 18 inches and integrated with the building's architecture as determined by the director.

(iv) Change of building materials.

(v) Articulation of the building's top, middle, and bottom. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline (see Figures 3 and 4.)

(c) Roofline Modulation. Roofline modulation can be used in order to articulate the structure:

(i) In order to qualify as an articulation element in subsection (7)(b) of this section or in this subsection, the roofline shall meet the following modulation requirement (see Figure 5):

(A) For flat roofs or facades with horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of the wall) when combined with

vertical building modulation techniques described in subsection (7)(a) of this section. Otherwise, the minimum vertical dimension of roofline modulation is the greater of four feet or 0.2 multiplied by the wall height.

(B) Buildings with pitched roofs must include a minimum slope of 5:12 and feature modulated roofline components at the interval required per the applicable standard above.

Figure 3 – Note the repeating distinctive window patterns and the articulation of the building's top, middle and bottom.

Figure 4 – An example of articulating a building's top, middle, and bottom by utilizing brick on the ground floor, defined window patterns and articulation treatments on upper floors, and a distinctive roofline.

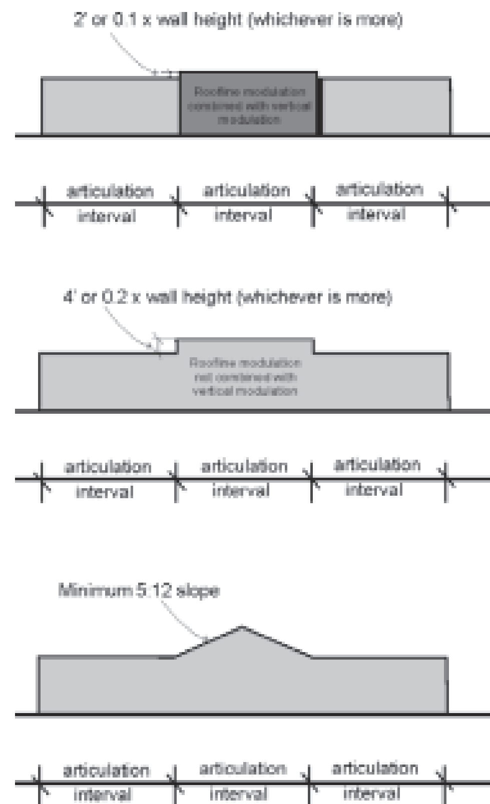

Figure 5 – Roofline modulation standards.

Figure 6 – Example of good articulation for a multifamily building.

(8) Building Design – Entrances. The intent of the building entrances standards is to ensure that buildings are inviting and accessible, and to encourage pedestrian activity. The principal building entrances of all buildings shall feature the following improvements, unless the director determines an alternate technique better addresses the intent of these standards:

(a) A distinct entry feature that provides weather cover that is at least three feet deep must be provided for the primary entrance(s) to residential units. Figures 7 and 8 demonstrate this requirement.

(b) Access to Residential Units. Ground floor residential units facing a street or common open space shall be directly accessible from the applicable street or open space.

(c) Townhouse Entrances. Townhomes and all other multifamily dwelling units with private exterior ground floor entries shall provide at least 20 square feet of landscaping adjacent to the entry. This is particularly important for units where the primary entrance is next to private garages off an interior access road. Such landscaping areas soften the appearance of the building and highlight individual entries. See Figure 8 for an example of what is desired and Figure 9 for an example of what is unacceptable.

Figure 7 – Weather protection that articulates the front facade is provided.

Figure 8 – Ground floor residential units directly accessible to the street with landscaping defining the entry.

Figure 9 – An example of unacceptable townhouse design where there is no landscaping adjacent to the entries.

(9) Building Design – Details. The building design details standards are intended to ensure that buildings have design interest at all observable distances and to enhance the architecture of multifamily buildings. At closer distances, the most important aspects of a building are its design details, texture of materials, quality of its finishes, and small, decorative elements. Multifamily building facades shall incorporate four architectural details, except that if option e below is used, only three architectural details must be used. Chosen details shall be compatible with the chosen architectural character of the building. Detail options include:

(a) Decorative porch design with distinct design and use of materials.

(b) Decorative treatment of windows and doors such as decorative molding/framing details around all ground floor windows and doors, bay windows, decorative glazing, or door designs and/or unique window designs.

(c) Landscaped trellises or other decorative element that incorporates landscaping near the building entry or entries.

(d) Decorative light fixtures with a diffuse visible light source, such as a globe or "acorn" that is nonglaring or a decorative shade or mounting for each building entry on the facade.

(e) Brick or stonework covering more than 10 percent of the facade.

(f) Decorative building materials that add visual interest, including:

(i) Individualized patterns or continuous wood details.

(ii) Decorative moldings, brackets, wave trim or lattice work.

(iii) Decorative brick or stonework (may be in addition to the brick or stonework credits noted above if they are arranged in a decorative manner that adds visual interest to the facade).

(iv) Other materials with decorative or textural qualities as approved by the director. The applicant must submit architectural drawings and material samples for approval.

(g) Decorative roofline design, including multiple gables and/or dormers or other design that adds distinct visual interest.

(h) Decorative railings, grill work, or terraced landscape beds integrated along the facade of the building.

(i) Decorative balcony design, such as distinctive railings.

(j) Other details that meet the intent of the standards as approved by the director.

Figure 10 – This building uses brick for more than 10 percent of the facade, a decorative mix of materials and colors, decorative entries, and decorative windows to add visual interest.

(10) Window Design for Residential Uses. Building facades shall employ techniques to recess or project individual windows above the ground floor at least two inches from the facade, or incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the director where buildings employ other distinctive windows or facade treatments that add visual interest to the building.

ACCEPTABLE
Recessed window treatment.

UNACCEPTABLE
No distinctive window treatment.

ACCEPTABLE
Window treatment incorporates trim and grids on panes.

Figure 11 – Acceptable and unacceptable window treatments.

(11) Building Materials. The building materials standards are intended to encourage the use of a variety of high-quality, durable materials that will enhance the visual image of the city; provide visual interest and distinct design qualities; and promote compatibility and improvement within surrounding neighborhoods through effective architectural detailing and the use of traditional building techniques and materials. The following standards apply:

(a) Building exteriors shall be constructed from high-quality, durable materials. Building materials such as masonry, stone, lap-siding, and wood are encouraged.

(b) The following materials are prohibited in visible locations unless an exception is granted by the director based on the integration of the material into the overall design of the structure:

(i) Plywood siding (including T-111 or similar plywood). Board and batten is an exception.

(ii) Corrugated fiberglass.

(iii) Noncorrugated and highly reflective sheet metal.

(iv) Chain link fencing; provided, that the director may approve chain link fencing when it is integrated into the overall site design (chain link fencing is also allowed for temporary purposes such as a construction site, or as a gate for a refuse enclosure).

(12) Blank Walls. The blank wall standards are intended to: reduce the visual impact of large, undifferentiated walls; reduce the apparent size of large walls through the use of various architectural and landscaping treatments; enhance the character and identity of the city; and ensure that all visible sides of buildings provide visual interest. Blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot are prohibited.

(a) A wall (including building facades and other exterior building walls, retaining walls, and fences) is defined as a blank wall if:

(i) A ground floor wall or portion of a ground floor wall over four feet in height has a horizontal length greater than 15 feet and does not include a transparent window or door; or

(ii) Any portion of a ground floor wall having a surface area of 400 square feet or greater does not include a transparent window or door.

(b) All blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot shall be treated in one or more of the following measures:

(i) Incorporate transparent windows or doors;

(ii) Install a vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60 percent of the wall's surface within three years. For large blank wall areas, the trellis must be used in conjunction with other treatments described below;

(iii) Provide a landscaped planting bed at least five feet wide, or a raised planter bed at least two feet high and three feet wide in front of the wall. Plant materials must be able to obscure or screen at least 60 percent of the wall's surface within three years;

(iv) Provide artwork (mosaic, mural, sculpture, relief, etc.) over at least 50 percent of the blank wall surface; and/or

(v) Other method as approved by the director. For example, landscaping or other treatments may not be necessary on a wall that employs

high-quality building materials (such as brick) and provides desirable visual interest.

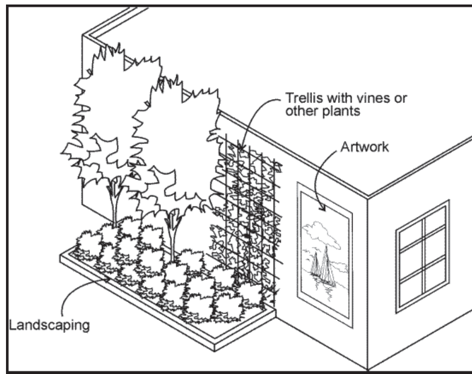

Figure 12 – Blank wall treatments.

Figure 13 – Terraced planting beds effectively screen a large blank wall.

(Ord. 2927 § 3, 2013; Ord. 2870 § 6, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.300 Commercial, multiple-family, townhome, and group residences – Vehicular access and parking location.

(1) On sites abutting an alley, commercial, apartment, townhome and all group residence 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. 2852 § 10 (Exh. A), 2011).

22C.010.310 Small lot single-family dwelling development standards.

The provisions of this section apply to building permits for single-family dwellings on lots having an area less than 5,000 square feet and single-family dwellings when multiple single-family dwellings are on a single lot, excluding accessory dwelling units; review will be done through the building permit process.

(1) It is the intent of these development standards that single-family dwellings on small lots be compatible with neighboring properties, friendly to the streetscape, and in scale with the lots upon which they are to be constructed. The 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.

(2) Entry. 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 entryway with an entry feature that is at least 60 square feet with no dimension less than six feet.

The director may approve a street orientation or entryway with dimensions different than specified herein; provided, the entry visually articulates the front facade of the dwelling so as to create a distinct entryway, meets setback requirements, provides weather cover, has a minimum dimension of four feet, and is attached to the home.

(3) Alleys.

(a) 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.

(b) The minimum driveway length may be reduced to between six and zero feet for garages when the following conditions are met:

(i) An alley is provided for access;

(ii) At least one off-street parking space, in addition to any provided in the garage, is provided to serve that dwelling unit and the stall(s) is conveniently located for that particular dwelling; and

(iii) The applicable total parking stall requirement is met.

(c) The rear yard setback may be reduced to zero feet to accommodate the garage.

(d) If the garage does not extend to the property line or alley, the dwelling unit above the garage may be extended to the property line or alley.

(e) Dwellings with a wall facing an alley must provide at least one window facing the alley to allow observation of the alley.

(4) Auto Courts.

(a) Auto courts are only allowed in a PRD.

(b) Auto courts provide ingress and egress to a cluster of no more than six dwellings and access from a nonarterial street. Auto court design must be consistent with the city's design guidelines for auto courts.

(c) Auto courts shall be no less than 20 feet in width; provided, that if emergency services access is required, the driving surface dimensions will comply with emergency vehicle access requirements.

(d) Auto courts shall be no greater than 150 feet in length, unless acceptable emergency vehicle turnaround is provided and designed so vehicles will not back onto public streets.

(e) Driveway length may be reduced to between three feet and six feet for garages when at least two parking spaces are provided for the unit in addition to the garage. The additional parking must be conveniently located to the dwelling.

(5) Facade and Driveway Cuts. If there is no alley access and the lot fronts on a public or private street, living space equal to at least 50 percent of the garage facade shall be flush with or projected forward of the garage, and the dwelling shall have entry, window and/or roofline design treatment which emphasizes the house more than the garage. Where materials and/or methods such as modulation, articulation, or other architectural elements such as porches, dormers, gables, or varied roofline heights are utilized, the director or designee may waive or reduce the 50 percent standard. Driveway cuts shall be no more than 80 percent of the lot frontage; provided, that the director or designee may waive the 80 percent maximum if materials and/or methods to de-emphasize the driveway, such as ribbon driveways, grasscrete surface, or accent paving, are utilized.

(6) Privacy. 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.

(7) Individual Identity. Home individuality will be achieved by the following:

(a) Avoiding the appearance of a long row of homes by means such as angling houses, varied street setbacks, and varied architectural design features.

(b) 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 director or designee shall review and approve or deny the building design, which may incorporate variations in rooflines, setbacks between adjacent buildings, and other structural variations.

(c) The same building plans cannot be utilized on consecutive lots. "Flip-flopping" of plans is not permitted; provided, that upon demonstration to the 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.

(8) Landscaping. Landscaping of a size and type consistent with the development will be provided to enhance the streetscape. Landscaping will enhance privacy for dwellings on abutting lots and provide separation and buffering on easement access drives.

(9) Duplexes. Duplexes must be designed to architecturally blend with the surrounding single-family dwellings and not be readily discernible as a duplex but appear to be a single-family dwelling. (Ord. 2898 § 12, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.320 Open space and recreation space required.

The on-site open space and recreation space standards are intended to provide usable, accessible, and inviting open space for residents that enhances residential areas. Multifamily residential uses shall provide open space equivalent to at least 20 percent of the building's gross floor area. The required area may be satisfied with one or more of the elements listed below:

(1) Common open space accessible to all residents shall count for up to 100 percent of the required open space. This includes landscaped courtyards or decks, gardens with pathways, children's play areas, or other multipurpose recreational and/or green spaces. Special requirements and recommendations for common spaces include the following:

(a) Space shall be large enough to provide functional leisure or recreational activity area per the director. For example, long narrow spaces less than 20 feet wide rarely, if ever, can function as usable common open space.

(b) Consider space as a focal point of development.

(c) Open space, particularly children's play areas, shall be visible from dwelling units and positioned near pedestrian activity.

(d) Space shall feature paths, plantings, seating, lighting and other pedestrian amenities to make the area more functional and enjoyable.

(e) Individual entries shall be provided onto common open space from adjacent ground floor residential units. Small, semi-private open spaces for adjacent ground floor units that maintain visual access to the common area are strongly encouraged to enliven the space.

(f) Separate common space from ground floor windows, streets, service areas and parking lots with landscaping and/or low-level fencing, where desirable.

(g) Space shall be oriented to receive sunlight, facing east, west, or (preferably) south, when possible.

(h) Required setbacks, landscaping, driveways, parking, or other vehicular use areas shall not be counted toward the common open space requirement.

(i) Rooftops or rooftop decks shall not be considered as common open space for the purpose of calculating minimum open space area; provided, that the director may consider rooftops or rooftop decks as common open space where usable open space amenities are provided and available to all residents.

(j) Outdoor open space shall not include areas devoted to parking or vehicular access.

(2) The following amenities may be used to satisfy up to 50 percent of the open space requirement. A combination of these amenities may be provided in different ratios; provided, that (i) the total credit for any combination of the following amenities may not exceed 50 percent of the open space requirement, and (ii) the amount of the amenity provided is sufficient to achieve the purpose of the amenity as determined by the director:

(a) Individual balconies that provide a space usable for human activity. To qualify, the balconies shall be at least 35 square feet and have no dimension less than four feet.

(b) Natural areas that function as an amenity to the development, subject to the following requirements and recommendations:

(i) The natural area shall be accessible to all residents. For example, safe and attractive trails provided along or through the natural area where they could serve as a major amenity to the development.

(ii) Steep slopes, wetlands, or similar unbuildable areas shall not be counted in the calculations for required open space unless they provide a visual amenity for all units, as determined by the director.

(c) Storm water retention areas if the facility has natural-looking edges, natural vegetation, and no fencing except along the property line. The design of such areas shall go well beyond functional storm water requirements per the director in terms of the area involved and the quality of landscaping and resident amenities. The side slope of the storm water facilities shall not exceed a grade of 1:3 (one vertical to three horizontal) unless slopes are existing, natural, and covered with vegetation.

(3) Children's play equipment and recreational activity space for children and/or teens that include parent seating areas are required in residential complexes with 20 or more units. Exceptions: age-restricted senior citizen housing; mixed use developments; developments reserved for student housing; infill lots within the downtown master plan area; and developments located within a quarter mile of safe walking distance to a public park that features a play area.

(4) Active recreation facilities may be provided instead of common open space, subject to the following:

(a) Active recreation facilities may include, but are not limited to, exercise rooms, sports courts, swimming pools, tennis courts, game rooms, or community centers; and

(b) Indoor recreation areas may be credited towards the total recreation space requirement, when the director determines that such areas are located, designed and improved in a manner which provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors.

Figure 14 – Balconies provide private, usable open space for residents.

Figure 15 – A residential courtyard providing semi-private patio spaces adjacent to individual units.

Figure 16 – Children's play area incorporated into a multifamily development.

(Ord. 2927 § 4, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.330 Townhouse open space.

Townhouses and other ground based multifamily residential units with individual exterior entries must provide at least 200 square feet of private open space per dwelling unit adjacent to, and directly accessible from, each dwelling unit. This may include private balconies, individual rear yards, landscaped front yards, and covered front porch areas. Exception: Common open space designed in accordance with MMC 22C.010.320(1) may substitute for up to 50 percent of each unit's required private or semi-private open space on a square foot per square foot basis.

Figure 17 – Common open space for a townhouse development.

Figure 18 – These townhouses provide balconies and semi-private yard space.

Figure 19 – Example townhouse configuration with a combination of private open spaces adjacent to units and larger common open space accessible to all units.

(Ord. 2927 § 5, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.340 Maintenance or dedication of open space and recreation space.

(1) Unless the open space or recreation space is dedicated to the city pursuant to subsection (2) of this section, maintenance of any open space or 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) Open space or recreation space may be dedicated as a public park when the following criteria are met:

(a) The dedicated area is at least one and one-half 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. 2927 § 6, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.350 On-site recreation – Fee in lieu of open space or 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 space when a proposed development is located within one-quarter mile of an existing or proposed recreational facility. (Ord. 2927 § 7, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.360 On-site recreation – Acceptance criteria for fee in lieu of recreation space.

City 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 22C.010.340(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. 2927 § 8, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.370 Storage space and collection points for recyclables.

Developments shall provide storage space for the collection of recyclables as follows:

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(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.

(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. 2852 § 10 (Exh. A), 2011).

22C.010.380 Fences.

(1) Purpose. The fence standards promote the positive benefits of fences without negatively affecting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access and the safe movement of pedestrians and vehicles, and create an unattractive appearance.

(2) Types of Fences.

(a) The standards apply to walls, fences, trellises, arbors and screens of all types whether open, solid, wood, metal, wire, masonry or other material.

(b) No barbed or razor-wire fence shall be permitted, except for the following:

(i) Confinement of livestock.

(ii) Public facilities, transmitter and transformer sites.

(iii) Government installations where security or public safety is required.

(3) Height.

(a) Access Streets.

(i) Front lot line: Four feet solid or six feet if entirely open-work fence.

(ii) Side lot line: Six feet.

(iii) Rear lot line: Six feet.

(b) Arterial Streets.

(i) Front lot line: Six feet; provided, that the top two feet are constructed as an open-work fence.

(ii) Side lot line: Six feet.

(iii) Rear lot line: Six feet.

(c) When a protective fence is located on top of a rockery, any portion of the fence above a height of six feet shall be an open-work fence.

(d) 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.

(e) 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.

(f) 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.

(4) Setbacks.

(a) Front Lot Line.

(i) Solid fences greater than four feet in height shall be set back at least 20 feet from the street right-of-way, except in the following circumstances:

(A) For a corner lot the 20-foot setback shall only apply to the street which provides primary access to the lot.

(B) 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.

(ii) 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.

(b) Side lot line: No setback requirement.

(c) Rear lot line: No setback requirement.

(d) For special rules relating to fences and walls near fire hydrants, see MMC 14.03.050(2) and the International Fire Code.

(5) Fence Variances.

(a) The community development director shall have authority to administratively grant a variance to the fence requirements outlined in this section. The community development 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.

(b) Variance requests shall be submitted in writing on a form provided by the city. At the time the applicant submits the variance request to the city, the applicant shall also provide written notification of the variance request to immediately adjoining property owners by first class mail or personal service. Said notice shall include an adequate description of the height and location of the proposed fence.

(c) In considering a request for a modification of the fence requirements outlined in subsections (1) through (4) of this section, the community development director shall consider the following factors:

(i) 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;

(ii) The proposed fence will not infringe upon or interfere with utility and/or access easements or covenant rights or responsibilities;

(iii) The increased fence height will not adversely affect adjacent property owners;

(iv) Fences greater than six feet in height are required to obtain a city building permit;

(v) 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.

(d) Each variance request shall be considered on a case-by-case basis, and the resulting decision shall not be construed as setting precedent for any subsequent application.

(e) The decision of the community development director on a variance application shall be final, subject to appeal to the city hearing examiner pursuant to the procedures in Chapter 22G.010 MMC, Article VIII, Appeals. Appeals shall be filed within 14 calendar days of the written decision of the community development director. (Ord. 2898 § 5, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.010.390 Special limitations in the R-12 through R-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. 2852 § 10 (Exh. A), 2011).

22C.010.400 Duplex performance and design standards.

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 rooflines, setbacks between adjacent buildings or lots, and other structural variations. Where the applicant and the community development 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 Chapter 22G.010 MMC, Land Use Application Procedures.

(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 inches in caliper for deciduous or six feet in height for evergreen trees, plus a mixture of trees, shrubs and ground cover 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. 2852 § 10 (Exh. A), 2011).

22C.010.410 Nonconforming situations.

Existing developments that do not conform to the development standards of this chapter are subject to the standards of Chapter 22C.100 MMC, Nonconforming Situations. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.420 Parking and loading.

The standards pertaining to the required number of auto parking spaces, bicycle parking spaces, parking lot placement, parking lot setbacks and internal parking lot pedestrian connections are stated in Chapter 22C.130 MMC, Parking and Loading. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.430 Signs.

The sign standards are stated in Chapter 22C.160 MMC, Signs. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.440 Landscaping and screening.

The landscaping and screening standards are stated in Chapter 22C.120 MMC, Landscaping and Screening. (Ord. 2852 § 10 (Exh. A), 2011).

22C.010.450 Planned residential developments.

See Chapter 22G.080 MMC, Planned Residential Developments. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.020

COMMERCIAL, INDUSTRIAL, RECREATION AND PUBLIC INSTITUTIONAL ZONES

Sections:

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22C.020.030 Characteristics of commercial, industrial, recreation and public institutional zones.
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22C.020.090 Densities and dimensions – Development conditions.
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22C.020.010 Purpose.

The commercial, industrial, recreation and public institutional zone categories implement the commercial, industrial and recreational goals and policies and land use plan map designation of the comprehensive plan. The zones are for areas of the city designated by the comprehensive plan for commercial, industrial and recreational uses. The difference in the zoning categories reflects the diversity of commercial, industrial and recreation areas in the city. The zones are distinguished by the uses allowed and the intensity of development allowed. A wide range of uses is allowed in each zone. Limits on the intensity of uses and the development standards promote the desired character for the commercial, industrial or recreational area. The development standards are designed to allow a large degree of development flexibility within parameters that support the intent of the specific zone. The standards are intended to provide certainty to property owners, developers and neighbors about the limits of what is allowed in the various zoning categories. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.020 List of the commercial, industrial, recreation and public institutional zones.

The full names, short names and map symbols of the commercial, industrial, recreation and public institutional zones are listed below.

Full Name	Short Name/ Map Symbol
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
Public/Institutional Zone	P/I
Whiskey Ridge	WR (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. 2852 § 10 (Exh. A), 2011).

22C.020.030 Characteristics of commercial, industrial, recreation and public institutional zones.

(1) Neighborhood Business Zone.

(a) 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:

(i) Limiting nonresidential uses to those retail or personal services which can serve the everyday needs of a surrounding residential area;

(ii) Allowing for a mix of housing and retail/service uses; and

(iii) Excluding industrial and community/regional business-scaled uses.

(b) 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.

(2) Community Business Zone.

(a) 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:

(i) 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;

(ii) Allowing for a mix of housing and retail/service uses; and

(iii) Excluding commercial uses with extensive outdoor storage or fabrication and industrial uses.

(b) 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.

(3) General Commercial Zone.

(a) 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:

(i) 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;

(ii) Allowing for outdoor sales and storage, regional shopping areas and limited fabrication uses; and

(iii) Concentrating large-scale commercial and office uses to facilitate the efficient provision of public facilities and services.

(b) 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.

(4) Downtown Commercial Zone.

(a) 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:

(i) 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;

(ii) Allowing for regional shopping areas, and limited fabrication uses; and

(iii) Concentrating large-scale commercial and office uses to facilitate the efficient provision of public facilities and services.

(b) 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.

(5) Mixed Use Zone.

(a) 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:

(i) Allowing for uses that will take advantage of pedestrian-oriented site and street improvement standards;

(ii) Providing for higher building heights and floor area ratios than those found in the CB zone;

(iii) Reducing the ratio of required parking to building floor area;

(iv) Allowing for on-site convenient daily retail and personal services for employees and residents; and

(v) 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.

(b) 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.

(6) Light Industrial Zone.

(a) 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:

(i) Allowing for a wide range of industrial and manufacturing uses;

(ii) Establishing appropriate development standards and public review procedures for industrial activities with the greatest potential for adverse impacts; and

(iii) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities.

(b) 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.

(7) General Industrial Zone.

(a) 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:

(i) Allowing for a wide range of industrial and manufacturing uses;

(ii) Establishing appropriate development standards and public review procedures for industrial activities with the greatest potential for adverse impacts; and

(iii) Limiting residential, institutional, service, office and other nonindustrial uses to those necessary to directly support industrial activities.

(b) 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.

(8) Business Park Zone.

(a) 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 inten-

sive 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.

(b) 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.

(9) Recreation Zone.

(a) 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.

(b) This recreation zone is applied to all land designated as "recreation" on the comprehensive plan map.

(10) Public/Institutional Zone.

(a) The purpose of the public/institutional (P/I) land use zone is to establish a zone for governmental buildings, churches and public facilities.

(b) This public/institutional zone is applied to all land designated as "public/institutional" on the comprehensive plan map.

(11) Small Farms Overlay Zone.

(a) 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 overlay 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.

(b) Use of this zone is appropriate for existing and newly designated small farms. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.040 Additional zoning standards.

The standards in this chapter state the allowed uses and development standards for the base zones. Sites with overlay zones, subarea or master plans are subject to additional standards. The official zoning maps indicate which sites are subject to these additional standards. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.050 Commercial, industrial, recreation and public institutional zones primary uses.

(1) Permitted Uses (P). Uses permitted in the commercial, industrial, recreation and public institutional zones are listed in MMC 22C.020.060 with a "P." These uses are allowed if they comply with the development standards and other standards of this chapter.

(2) Conditional Uses (C). Uses that are allowed if approved through the conditional use review process are listed in MMC 22C.020.060 with a "C." These uses are allowed provided they comply with the conditional use approval criteria for that use, the development standards and other standards of this chapter. Uses listed with a "C" that also have a footnote number in the table are subject to the standards cited in the footnote. The conditional use review process and approval criteria are stated in Chapter 22G.010 MMC.

(3) Uses Not Permitted. If no symbol appears in the box at the intersection of the column and the row, the use is not permitted in that district, except for certain temporary uses.

(4) 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 this code and the specific conditions indicated in the development condition with the corresponding number as listed in MMC 22C.020.070.

(5) 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 this code and the specific conditions indicated in the development condition with the corresponding number as listed in MMC 22C.020.070.

(6) All applicable requirements shall govern a use whether or not they are cross-referenced in a section. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.060 Permitted uses.

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Residential Land Uses										
Dwelling Units, Types:										
Townhouse				P6	P					
Multiple-family	C4	P4, C5	P4, C5	P4, P6	P					
Mobile home	P7	P7	P7	P7	P7	P7	P7	P7		
Senior citizen assisted	P				C					P
Caretaker's quarters (3)	P	P	P	P	P	P	P	P	P	P
Group Residences:										
Adult family home	P	P	P	P	P	P70	P70	P70	P70	P
Convalescent, nursing, retirement	C	P	P	P	P					P
Residential care facility	P	P	P	P	P	P70	P70	P70	P70	P
Master planned senior community (10)					C					C
Accessory Uses:										
Home occupation (2)	P8	P8, P9	P8, P9	P8, P9	P8, P9	P9	P9	P9		
Temporary Lodging:										
Hotel/motel	P	P	P	P	P	P	P			
Bed and breakfast guesthouse (1)										
Bed and breakfast inn (1)	P	P	P							
Recreation/Cultural Land Uses										
Park/Recreation:										
Park	P11	P	P	P	P	P	P	P	P11	P
Marina				P				P	C	P
Dock and boathouse, private, noncommercial				P				P	P16	P
Recreational vehicle park			C12				C12		C	P
Boat launch, commercial or public				P				P		P
Boat launch, noncommercial or private				P				P	P17	P
Community center	P	P	P	P	P	P	P	P	P	P
Amusement/Entertainment:										
Theater		P	P	P	P					
Theater, drive-in			C							
Amusement and recreation services		P18	P18	P18	P19	P	P	C		
Sports club	P	P	P	P	P	P	P	P		
Golf facility (13)		P	P			P	P	P	C	
Shooting range (14)			P15			P15	P15			
Outdoor performance center			C				C		C	C

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Riding academy						P	P		C	
Cultural:										
Library, museum and art gallery	P	P	P	P	P	P	P	P	C	P
Church, synagogue and temple	P	P	P	P	P	P	P	P		P
Dancing, music and art center		P	P	P	P				C	P
General Services Land Uses										
Personal Services:										
General personal service	P	P	P	P	P	P	P	P		
Dry cleaning plant		P					P	P		
Dry cleaning pick-up station and retail service	P	P	P	P	P25		P	P		
Funeral home/crematory		P	P	P	P26	P	P	P		
Cemetery, columbarium or mausoleum	P24	P24	P24 C20			P	P	P		
Day care I	P70	P70	P70	P70	P70	P70	P21, 70	P70	P70	P70
Day care II	P	P	P	P	P	P21	P21			
Veterinary clinic	P	P	P	P	P	P	P	P		
Automotive repair and service	P22	C, P28	P			P	P	P		
Electric vehicle (EV) charging station (64)	P	P	P	P	P	P	P	P	P	P
EV rapid charging station (65), (66)	P	P	P	P67	P67		P	P		
EV battery exchange station			P				P	P		
Miscellaneous repair		P	P				P	P		
Social services		P	P	P	P					P
Kennel, commercial and exhibitor/breeding (71)		P	P			C	P	P		
Pet daycare (71), (72)		P	P	P	P	P	P	P		
Civic, social and fraternal association		P	P	P	C	P		P		P
Club (community, country, yacht, etc.)						P		P		P
Health Services:										
Medical/dental clinic	P	P	P	P	P					P
Hospital		P	P	P	C					C
Miscellaneous health	P68	P68	P68	P68	P68					P68
Education Services:										
Elementary, middle/junior high, and senior high (including public, private and parochial)		C	C	C	C		P	C		C
Commercial school	P	P		P	P27					C
School district support facility	C	P	P	P	P		P	P		P

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Vocational school		P	P	P	P27					P
Government/Business Service Land Uses										
Government Services:										
Public agency office	P	P	P	P	P	P	P	P		P
Public utility yard			P				P			P
Public safety facilities, including police and fire	P29	P	P	P	P		P			P
Utility facility	P	P	P		C	P	P	P		P
Private storm water management facility	P	P	P	P	P	P	P	P		P
Public storm water management facility	P	P	P	P	P	P	P	P		P
Business Services:										
Contractors' office and storage yard			P30	P30	P30		P	P		
Interim recycling facility		P23	P23				P			P
Taxi stands		P	P							
Trucking and courier service		P31	P31				P	P		
Warehousing and wholesale trade			P			P	P	P		
Mini-storage (36)			P			P	P	P		
Freight and cargo service			P			P	P	P		
Cold storage warehousing							P	P		
General business service and office	P	P	P	P	P30	P	P	P		
Commercial vehicle storage						P	P	P		
Professional office	P	P	P	P	P	P	P			
Miscellaneous equipment rental		P30, 37	C38		P30, 37		P	P		
Automotive rental and leasing			P				P			
Automotive parking	P	P	P	P	P	P	P	P		
Research, development and testing			P			P	P	P		
Heavy equipment and truck repair							P	P		
Automobile holding yard			C				P	P		
Commercial/industrial accessory uses	P39, 40	P39	P39	P39, 40	P39, 40	P	P	P		
Adult facility								P33		
Factory-built commercial building (35)	P	P	P	P		P	P	P		
Wireless communication facility (32)	P, C	P, C	P, C	P, C	P, C	P, C	P, C	P, C		P, C
State-Licensed Marijuana Facilities:										
Marijuana processing facility – Indoor only (69)										

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Marijuana production facility – Indoor only (69)										
Marijuana retail facility (69)										
Retail/Wholesale Land Uses										
Building, hardware and garden materials	P47	P	P	P	P47		P	P		
Forest products sales		P	P				P			
Department and variety stores	P	P	P	P	P		P			

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Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Food stores	P	P	P	P	P45		P			
Agricultural crop sales		P	P		C		P			
Storage/retail sales, livestock feed							P	P		
Motor vehicle and boat dealers		P	P				P	P		
Motorcycle dealers		C	P	P49			P	P		
Gasoline service stations	P	P	P	P			P	P		
Eating and drinking places	P41	P	P	P	P46	P	P	P		
Drug stores	P	P	P	P	P		P	P		
Liquor stores		P	P							
Used goods: antiques/secondhand shops		P	P	P	P					
Sporting goods and related stores		P	P	P	P					
Book, stationery, video and art supply stores	P	P	P	P	P					
Jewelry stores		P	P	P	P					
Hobby, toy, game shops	P	P	P	P	P					
Photographic and electronic shops	P	P	P	P	P					
Fabric and craft shops	P	P	P	P	P					
Fuel dealers			P43			P43	P43	P43		
Florist shops	P	P	P	P	P					
Pet shops	P	P	P	P	P					
Tire stores		P	P	P			P	P		
Bulk retail		P	P				P			
Auction houses			P42				P			
Truck and heavy equipment dealers							P	P		
Mobile home and RV dealers			C				P	P		
Retail stores similar to those otherwise named on this list	P	P	P	P	P48	P44	P44	P44		
Automobile wrecking yards							C	P		
Manufacturing Land Uses										
Food and kindred products		P50, 52	P50				P50	P		
Winery/brewery		P53	P	P53	P53		P	P		
Textile mill products							P	P		
Apparel and other textile products			C				P	P		
Wood products, except furniture			P				P	P		
Furniture and fixtures			P				P	P		
Paper and allied products							P	P		
Printing and publishing	P51	P51	P		P51	P	P	P		
Chemicals and allied products							C	C		

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Petroleum refining and related industries							C	C		
Rubber and misc. plastics products							P	P		
Leather and leather goods							C	C		
Stone, clay, glass and concrete products							P	P		
Primary metal industries							C	P		
Fabricated metal products			C			P	P	P		
Industrial and commercial machinery							C	P		
Heavy machinery and equipment							C	P		
Computer and office equipment			C				P			
Electronic and other electric equipment			C				P			
Railroad equipment							C	P		
Miscellaneous light manufacturing				P54			P	P		
Motor vehicle and bicycle manufacturing							C	P		
Aircraft, ship and boat building							C	P		
Tire retreading							C	P		
Movie production/distribution			P				P			
Resource Land Uses										
Agriculture:										
Growing and harvesting crops						P	P	P	P	
Raising livestock and small animals						P	P	P	P	
Greenhouse or nursery, wholesale and retail			P			P	P	P	C	
Farm product processing							P	P		
Forestry:										
Growing and harvesting forest products							P			
Forest research							P			
Wood waste recycling and storage							C	C		
Fish and Wildlife Management:										
Hatchery/fish preserve (55)						P	P	P	C	
Aquaculture (55)							P	P	C	
Wildlife shelters	C	C							P	
Mineral:										
Processing of minerals							P	P		
Asphalt paving mixtures and block							P	P		
Regional Land Uses										
Jail		C	C			C	C			

Regional storm water management facility		C	C	C		C	C	C		P
Public agency animal control facility			C				P	P		C
Public agency training facility		C56	C56		C56		C57			C57
Nonhydroelectric generation facility	C	C	C				C	C		C
Energy resource recovery facility							C			
Soil recycling/incineration facility							C	C		
Solid waste recycling								C		C
Transfer station							C	C		C
Wastewater treatment facility						C	C	C		C
Transit bus base			C				P			C
Transit park and pool lot	P	P	P	P	P	P	P	P		P
Transit park and ride lot	P	P	P	P	P	P	P	P		C
School bus base	C	C	C				P			C58
Racetrack	C59	C59	C				P			
Fairground						P	P	P		C
Zoo/wildlife exhibit		C	C							C
Stadium/arena			C				C	P		C
College/university	C	P	P	P	P	P	P	P		C
Secure community transition facility								C60		
Opiate substitution treatment program facilities		P61, 62	P61, 62	P61, 62			P62	P62		

(Ord. 2985 § 5, 2015; Ord. 2981 § 1, 2015; Ord. 2980 § 1, 2015; Ord. 2959 § 7, 2014; Ord. 2932 § 3, 2013; Ord. 2898 § 9, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.070 Permitted uses – Development conditions.

(1) Bed and breakfast guesthouses and inns are subject to the requirements and standards contained in Chapter 22C.210 MMC, Bed and Breakfasts.

(2) Home occupations are subject to the requirements and standards contained in Chapter 22C.190 MMC, Home Occupations.

(3) Limited to one dwelling unit for the purposes of providing on-site service and security of a commercial or industrial business. Caretaker's quarters are subject to the provisions set forth in Chapter 22C.110 MMC, entitled "Temporary Uses."

(4) All units must be located above a street-level commercial use.

(5) Twenty percent of the units, but no more than two total units, may be located on the street level of a commercial use, if conditional use permit approval is obtained and the units are designed exclusively for ADA accessibility. The street-level units shall be designed so that the units are not located on the street front and primary access is towards the rear of the building.

(6) Permitted on the ground floor in the southwest sector of downtown vision plan area, as incorporated into the city of Marysville comprehensive plan.

(7) Mobile homes are only allowed in existing mobile home parks established prior to October 16, 2006.

(8) Home occupations are limited to home office uses in multifamily dwellings. No signage is permitted in townhouse or multifamily dwellings.

(9) Permitted in a legal nonconforming or conforming residential structure.

(10) Subject to Chapter 22C.220 MMC, Master Planned Senior Communities.

(11) The following conditions and limitations shall apply, where appropriate:

(a) Parks are permitted in residential and mixed use zones when reviewed as part of a subdi-

vision or multiple-family development proposal; otherwise, a conditional use permit is required;

(b) Lighting for structures and fields shall be directed away from residential areas; and

(c) Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

(12) Recreational vehicle parks are subject to the requirements and conditions of Chapter 22C.240 MMC.

(13) Golf Facility.

(a) Structures, driving ranges and lighted areas shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

(b) Restaurants are permitted as an accessory use to a golf course.

(14) Shooting Range.

(a) Structures and ranges shall maintain a minimum distance of 50 feet from property lines adjoining residential zones;

(b) Ranges shall be designed to prevent stray or ricocheting projectiles or pellets from leaving the property; and

(c) Site plans shall include safety features of the range; provisions for reducing noise produced on the firing line; and elevations of the range showing target area, backdrops or butts.

(15) Only in an enclosed building.

(16) Dock and Boathouse, Private, Noncommercial.

(a) The height of any covered over-water structure shall not exceed 20 feet as measured from the line of ordinary high water;

(b) The total roof area of covered, over-water structures shall not exceed 1,000 square feet;

(c) The entirety of such structures shall have not greater than 50 percent of the width of the lot at the natural shoreline upon which it is located;

(d) No over-water structure shall extend beyond the average length of all pre-existing over-water structures along the same shoreline and within 300 feet of the parcel on which proposed. Where no such pre-existing structures exist within 300 feet, the pier length shall not exceed 50 feet;

(e) Structures permitted hereunder shall not be used as a dwelling; and

(f) Covered structures are subject to a minimum setback of five feet from any side lot line or extension thereof. No setback from adjacent properties is required for any uncovered structure, and no setback from water is required for any structure permitted hereunder.

(17) Boat Launch, Noncommercial or Private.

(a) The city may regulate, among other factors, required launching depth, and length of docks and piers;

(b) Safety buoys shall be installed and maintained separating boating activities from other water-oriented recreation and uses where this is reasonably required for public safety, welfare and health; and

(c) All site improvements for boat launch facilities shall comply with all other requirements of the zone in which it is located.

(18) Excluding racetrack operation.

(19) Amusement and recreation services shall be a permitted use if they are located within an enclosed building, or a conditional use if located outside. In both instances they would be subject to the exclusion of a racetrack operation similar to other commercial zones.

(20) Structures shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

(21) Permitted as an accessory use; see MMC 22A.020.020, the definition of "Accessory use, commercial/industrial."

(22) Only as an accessory to a gasoline service station; see retail and wholesale permitted use table in MMC 22C.020.060.

(23) All processing and storage of material shall be within enclosed buildings and excluding yard waste processing.

(24) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.

(25) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.

(26) Limited to columbariums accessory to a church; provided, that existing required landscaping and parking are not reduced.

(27) All instruction must be within an enclosed structure.

(28) Car washes shall be permitted as an accessory use to a gasoline service station.

(29) Public Safety Facilities, Including Police and Fire.

(a) All buildings and structures shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

(b) Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of 35 feet from such street.

(30) Outdoor storage of materials or vehicles must be accessory to the primary building area and located to the rear of buildings. Outdoor storage is subject to an approved landscape plan that provides

for effective screening of storage, so that it is not visible from public right-of-way or neighboring properties.

(31) Limited to self-service household moving truck or trailer rental accessory to a gasoline service station.

(32) All WCFs and modifications to WCFs are subject to Chapter 22C.250 MMC including but not limited to the siting hierarchy, MMC 22C.250.060. WCFs may be a permitted use or a CUP may be required subject to MMC 22C.250.040.

(33) Subject to the conditions and requirements listed in Chapter 22C.030 MMC.

(34) Reserved.

(35) A factory-built commercial building may be used for commercial purposes subject to the following requirements:

(a) A factory-built commercial building must be inspected at least two times at the factory by the State Building and Electrical Inspector during the construction process, and must receive a state approval stamp certifying that it meets all requirements of the International Building and Electrical Codes. At the building site, the city building official will conduct foundation, plumbing and final inspections; and

(b) A factory-built commercial building cannot be attached to a metal frame allowing it to be mobile. All structures must be placed on a permanent, poured-in-place foundation. The foundation shall be structurally engineered to meet the requirements set forth in Chapter 16 of the International Building Code.

(36) Mini-storage facilities are subject to the development standards outlined in Chapter 22C.170 MMC.

(37) Except heavy equipment.

(38) With outdoor storage and heavy equipment.

(39) Incidental assembly shall be permitted; provided, it is limited to less than 20 percent of the square footage of the site excluding parking.

(40) Light industrial uses may be permitted; provided, there is no outdoor storage of materials, products or vehicles.

(41) Excluding drinking places such as taverns and bars and adult entertainment facilities.

(42) Excluding vehicle and livestock auctions.

(43) If the total storage capacity exceeds 6,000 gallons, a conditional use permit is required.

(44) The retail sale of products manufactured on site shall be permitted; provided, that not more than 20 percent of the constructed floor area in any such development may be devoted to such retail use.

(45) Limited to 5,000 square feet or less.

(46) Eating and Drinking Places.

(a) Limited to 4,000 square feet or less.

(b) Drive-through service windows in excess of one lane are prohibited in Planning Area 1.

(c) Taverns, bars, lounges, etc., are required to obtain a conditional use permit.

(47) Limited to hardware and garden supply stores.

(48) Limited to convenience retail, such as video, and personal and household items.

(49) Provided there is no outdoor storage and/or display of any materials, products or vehicles.

(50) Except slaughterhouses.

(51) Limited to photocopying and printing services offered to the general public.

(52) Limited to less than 10 employees.

(53) In conjunction with an eating and drinking establishment.

(54) Provided there is no outdoor storage and/or display of any materials, products or vehicles.

(55) May be further subject to the provisions of city of Marysville shoreline management program.

(56) Except weapons armories and outdoor shooting ranges.

(57) Except outdoor shooting ranges.

(58) Only in conjunction with an existing or proposed school.

(59) Except racing of motorized vehicles.

(60) Limited to land located along east side of 47th Avenue NE alignment, in the east half of the northeast quarter of Section 33, Township 30N, Range 5E, W.M., and in the northeast quarter of the southeast quarter of Section 33, Township 30N, Range 5E, W.M., and land located east side of SR 529, north of Steamboat Slough, south and west of Ebey Slough (a.k.a. TP No. 300533-002-004-00) and in the northwest and southwest quarters of Section 33, Township 30N, Range 5E, W.M., as identified in Exhibit A, attached to Ordinance No. 2452.

(61) Opiate substitution treatment program facilities permitted within commercial zones are subject to Chapter 22G.070 MMC, Siting Process for Essential Public Facilities.

(62) Opiate substitution treatment program facilities, as defined in MMC 22A.020.160, are subject to the standards set forth below:

(a) Shall not be established within 300 feet of an existing school, public playground, public park, residential housing area, child-care facility, or actual place of regular worship established prior to the proposed treatment facility.

(b) Hours of operation shall be restricted to no earlier than 6:00 a.m. and no later than 7:00 p.m. daily.

(c) The owners and operators of the facility shall be required to take positive ongoing measures to preclude loitering in the vicinity of the facility.

(63) Permitted uses include Whiskey Ridge zones.

(64) Level 1 and Level 2 charging only.

(65) The term "rapid" is used interchangeably with Level 3 and fast charging.

(66) Rapid (Level 3) charging stations are required to comply with the design and landscaping standards outlined in MMC 22C.020.265.

(67) Rapid (Level 3) charging stations are required to be placed within a parking garage.

(68) Excepting "marijuana (cannabis) dispensaries" and "marijuana (cannabis) collective gardens" as those terms are defined or described in this code and/or under state law; such facilities and/or uses are prohibited in all zoning districts of the city of Marysville.

(69) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana or marijuana-infused products within commercial, industrial, recreation and public institutional zones in the city.

(70) Permitted within existing legal nonconforming single-family residences.

(71) Subject to the requirements set forth in MMC 10.04.460.*

(72) Pet daycares are restricted to indoor facilities with limited, supervised access to an outdoor fenced yard. Overnight boarding may be permitted as a limited, incidental use. Both outdoor access and overnight boarding privileges may be revoked or modified if the facility is not able to comply with the noise standards set forth in the WAC 173-60-040.* (Ord. 2985 § 6, 2015; Ord. 2981 § 2, 2015; Ord. 2979 § 4, 2014; Ord. 2959 § 8, 2014; Ord. 2932 § 4, 2013; Ord. 2898 § 10, 2012; Ord. 2852 § 10 (Exh. A), 2011).

*Code reviser's note: Ord. 2985 added these subsections as (70) and (71). They have been renumbered as (71) and (72) to avoid duplicating the subsection added by Ord. 2981.

22C.020.080 Densities and dimensions.

(1) Interpretation of Tables.

(a) Subsection (2) of this section contains 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 22C.020.090.

(b) The density and dimension table is arranged in a matrix format and is delineated into the commercial, industrial, recreation and public institutional use categories.

(c) Development standards are listed down the left side of the table, 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 set forth in MMC 22C.020.090.

(2) General Densities and Dimension Standards.

Standards	NB	CB	GC	DC	MU (12)	LI	GI	BP	REC	P/I	WR-MU (15)	WR-CB (15)
Base density: Dwelling unit/acre	(18)	12	12	12	28 (1)	–	–	–	–	–	12	–
Maximum density: Dwelling unit/acre	–	None (13)	None (13)	None	34 (2)	–	–	–	–	–	18 (13)	–
Minimum street setback (3)	20 feet	None (7)	None (7)	None (7)	None (7, 8)	None (7)	None (7)	None (7)	20 feet	None (7, 8)	None (7, 8, 14)	None (7, 14)
Minimum interior setback	10 feet (side) 20 feet (rear)	None (4)	None (4)	None (4)	5 feet (9)	None (4) 50 feet (5)	None (4) 50 feet (5)	–	None (4)	None (4)	5 feet (9, 16, 17)	None (4)
Base height (6)	25 feet	55 feet	35 feet	85 feet	45 feet, 65 feet (10)	65 feet	65 feet	45 feet	35 feet	45 feet	45 feet	55 feet
Maximum impervious surface: Percentage	75%	85%	85%	85%	85%, 75% (11)	85%	85%	75%	35%	75%	85%, 75% (11)	85%

(Ord. 2852 § 10 (Exh. A), 2011).

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22C.020.090 Densities and dimensions – 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 22C.090 MMC.

(3) 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.

(4) A 25-foot setback is required on property lines adjoining residentially designated property.

(5) 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.

(6) Height limits may be increased when portions of the structure or 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.

(7) Subject to sight distance review at driveways and street intersections.

(8) A 20-foot setback is required for multiple-family structures outside of the downtown portion of Planning Area 1.

(9) A 15-foot setback is required for (a) commercial or multiple-family structures on property lines adjoining single-family residentially designated property, and (b) a rear yard of a multi-story residential structure, otherwise no specific interior setback requirement. Interior setbacks may be reduced where features such as critical area(s) and buffer(s), public/private right-of-way or access easements, or other conditions provide a comparable setback or separation from adjoining uses.

(10) 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.

(11) The 85 percent impervious surface percentage applies to commercial developments, and the 75 percent rate applies to multiple-family developments.

(12) 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.

(13) Subject to the application of the residential density incentive requirements of Chapter 22C.090 MMC.

(14) Required landscaping setbacks for developments on the north side of Soper Hill Road are 25 feet from the edge of sidewalk.

(15) Projects with split zoning (two or more distinct land use zones) may propose a site plan to density average or adjust the zone boundaries using topography, access, critical areas, or other site characteristics in order to provide a more effective transition.

(16) Townhome setbacks are reduced to zero on an interior side yard setback where the units have a common wall for zero lot line developments.

(17) Townhome setbacks are reduced to five feet on side yard setbacks, provided the buildings meet a 10-foot separation between structures.

(18) There is no minimum or maximum density for this zone. Residential units are permitted if located above a ground-level commercial use. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.100 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 22C.020.180;

(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. 2852 § 10 (Exh. A), 2011).

22C.020.110 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 gross project area (in acres) by the applicable density.

(2) When calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

(a) Fractions of 0.50 or above shall be rounded up, provided this will not exceed the base density by more than 10 percent; and

(b) Fractions below 0.50 shall be rounded down. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.120 Calculations – Site area used for density calculations.

All areas of a commercial site may be used in the calculation of allowed residential density. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.130 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. 2852 § 10 (Exh. A), 2011).

22C.020.140 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. 2852 § 10 (Exh. A), 2011).

22C.020.150 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.

(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.

(3) When a base station or WCF equipment is proposed for placement on private property abutting ROW, the setback may be administratively reduced, provided the application demonstrates good cause for such reduction and adequate area for screening and landscaping is provided. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.160 Setbacks – From regional utility corridors.

(1) In commercial and industrial development, easements shall be used to delineate regional utility corridors.

(2) 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. 2852 § 10 (Exh. A), 2011).

22C.020.170 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. 2852 § 10 (Exh. A), 2011).

22C.020.180 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. 2852 § 10 (Exh. A), 2011).

22C.020.190 Height – Exceptions to limits.

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

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

(2) Fire or parapet walls, skylights, chimneys, smokestacks, church steeples, and utility line towers and poles. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.200 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) Uses on each portion of the lot shall only be those permitted in each zone pursuant to Chapter 22C.010 MMC and this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.210 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 community development 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. 2852 § 10 (Exh. A), 2011).

22C.020.220 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. 2852 § 10 (Exh. A), 2011).

22C.020.230 Commercial, industrial, recreation and public institutional zones – Purpose.

This section through MMC 22C.020.350 apply to new commercial and multifamily residential development. The purpose of this section 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;

(12) Minimize the rate of crime associated with persons and property and provide for the highest standards of public safety through the implementation of crime prevention through environmental design (CPTED) principles in design review. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.240 Commercial, industrial, recreation and public institutional zones design requirements – Applicability and interpretations.

(1) The intent of these design standards is to:

(a) Provide building design that has a high level of design quality and creates comfortable human environments;

(b) Incorporate design treatments that add interest and reduce the scale of buildings;

(c) Encourage building design that is authentic and responsive to site conditions; and

(d) Encourage functional, durable, and environmentally responsible buildings.

(2) Applicability.

(a) These design standards apply to all new development within the following zones: general commercial (GC), community business (CB), neighborhood business (NB), downtown commercial (DC), mixed use (MU).

(b) The following activities shall be exempt from these standards:

(i) Construction activities which do not require a building permit;

(ii) Interior remodels of existing structures;

(iii) 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.

(3) 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: Site Planning and Community Design for Great Neighborhoods (Frederick D. Jarvis, 1993) and City Comforts (David Sucher, 1996).

(b) Many of these site and building design standards call for a building or site to feature one or more elements from a menu of items. In these cases, a single element, feature, or detail may satisfy multiple objectives. For example, a specially designed or fabricated covered entry with attractive detailing might be counted toward requirements for human scale, building corners, and building details.

(c) 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.

(d) 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. 2927 § 9, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.250 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 and elevations 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 institutional and commercial development.

(c) The crime prevention through environmental design (CPTED) provisions of this section apply to all new commercial developments of over 12,000 square feet in building area.

(2) Relationship and Orientation of Buildings 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 (see Figure 1).

(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 right-of-way.

(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.

(b) 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.

(c) The development shall create a well-defined streetscape to allow for the safe movement of pedestrians.

(d) Commercial and mixed use buildings must be oriented towards at least one street. For sites that front multiple streets, commercial and mixed use buildings are encouraged to orient towards both streets; provided, that priority shall be given to streets that are more visible and/or provide a better opportunity for increased pedestrian activity.

(e) Commercial and mixed use building facades facing the street must have transparent windows or door covering at least 25 percent of the ground floor facade between four to eight feet above the level of the sidewalk. Departures will be considered by the director; provided, that the proposed building configuration and design enhances the pedestrian environment.

(f) No more than 50 percent of total project parking spaces may be located between the building's facade and the primary public street (street from which primary access is obtained) unless it is not feasible due to parcel size, topography, environmental conditions, or other factors as determined by the director. Where the property fronts on more than one public street, this provision applies to only one street frontage.

(g) Parking lots may not be located on corner locations adjacent to public streets unless no feasible on-site alternative exists.

(h) For large commercial and mixed use sites (over two acres) that feature multiple buildings, developments shall configure buildings to create focal points for pedestrian activity on the site. However, no more than 50 percent of the street frontage may be occupied by vehicular access or parking. Exceptions: An increased percentage of parking or vehicular access along the street front may be allowed where the configuration allows the development to better meet the intent of these standards. For example, if the configuration allows for a centralized plaza surrounded by a concentration of retail uses, an increase in the percentage of parking along the street front would be allowed.

Figure 1 – Examples of buildings that provide a well-defined streetscape.

(3) Relationship of Buildings 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. Solar access of the subject and adjacent properties should be considered in building design and location.

(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 22C.120 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, berms 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 storm water 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 22C.120 MMC) and Marysville 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 shall be part of the architectural concept. Lighting shall enhance the building design and adjoining landscaping. Appropriate lighting levels shall be provided in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, circulation areas, and other open space areas, in order to ensure safety and security; enhance and encourage evening activities; and provide a distinctive character to the area. New developments shall provide a lighting site plan which identifies lighting equipment, locations and standards, and implements the following design standards:

(i) All public areas shall be lighted with average minimum and maximum levels as follows:

(A) Minimum (for low or nonpedestrian and vehicular traffic areas) of one-half foot candle;

(B) Moderate (for moderate or high volume pedestrian areas) of one to two foot candles; and

(C) Maximum (for high volume pedestrian areas and building entries) of four foot candles.

(ii) Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.

(iii) Parking lot lighting shall be subject to the provisions set forth in MMC 22C.130.050(3)(d).

(iv) Pedestrian-scale lighting (light fixtures no taller than 15 feet) is encouraged in areas with high anticipated pedestrian activity. All fixtures over 15 feet in height shall be fitted with a full cut-off shield, be dark sky rated, and mounted no

more than 25 feet above the ground with lower fixtures preferable so as to maintain a human scale. Lighting shall enable pedestrians to identify a face 45 feet away in order to promote safety.

(v) Light levels at the property line should not exceed 0.1 foot candles (fc) adjacent to business properties, and 0.05 foot candles adjacent to residential properties.

All building lights shall be directed onto the building itself and/or the ground immediately adjacent to it. The light emissions should not be visible above the roofline of the building. Light fixtures other than traditional cobra heads are encouraged.

(vi) Uplighting on trees and provisions for seasonal lighting are encouraged.

(vii) Accent lighting on architectural and landscape features is encouraged to add interest and focal points.

(5) Site Design Utilizing Crime Prevention Through Environmental Design (CPTED) Principles. Development that is subject to this section shall incorporate the following CPTED strategies into building design and site layout:

(a) Access Control. Guidance of people coming and going from a building or site by placement of real and perceived barriers. Provision of natural access control limits access and increases natural surveillance to restrict criminal intrusion, especially into areas that are not readily observable.

(b) Surveillance. Placement of features, uses, activities, and people to maximize visibility. Provision of natural surveillance helps to create environments where there is plenty of opportunity for people engaged in their normal behavior to observe the space around them.

(c) Territoriality/Ownership. Delineation of private space from semi-public and public spaces that creates a sense of ownership. Techniques that reduce the perception of areas as "ownerless" and, therefore, available for undesirable uses.

Examples of ways in which a proposal can comply with CPTED principles are outlined in the CPTED Guidelines for Project Design and Review, prepared by the city.

(6) Building Design – Human-Scale Standards. The human-scale standards are intended to encourage the use of building components that relate to the size of the human body and to add visual interest to buildings. "Human scale" addresses the relationship between a building and the human body. Generally, buildings attain a good human scale when they feature elements or characteristics that are sized to fit human activities, such as doors, porches, and balconies. A minimum of three of the following human-scale building elements shall be incorporated into the new development:

(a) Balconies in upper stories, at least one balcony per upper floor on the facades facing streets, provided they are integrated into the architecture of the building;

(b) Bay windows or other window treatments that extend out from the building face;

(c) At least 150 square feet of pedestrian-oriented space for each 100 lineal feet of building facade;

(d) First floor individual windows, generally less than 32 square feet per pane and separated from the windows by at least a six-inch molding;

(e) Spatially defining building elements, such as a trellis, overhang, canopy, or other element, that defines space that can be occupied by people;

(f) Upper story setbacks, provided one or more of the upper stories are set back from the face of the building at least six feet;

(g) Composing smaller building elements near the entry of pedestrian-oriented street fronts of large buildings (see Figure 4);

(h) The director may consider other methods to provide human-scale elements not specifically listed here. The proposed methods must satisfy the intent of these standards.

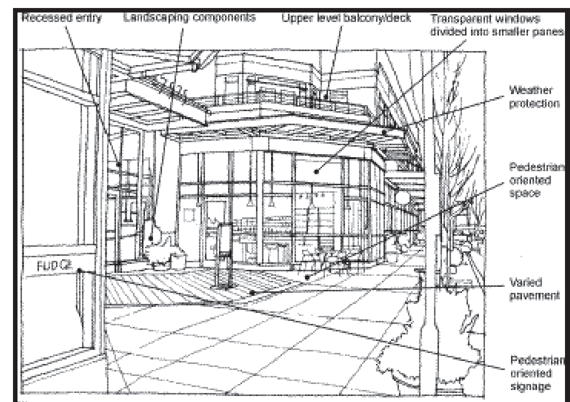

Figure 2 – Illustrating a variety of human-scale components on a building.

Figure 3 – This mixed use building incorporates decks, upper level setbacks, trellises, and landscaping to meet human-scale guidelines.

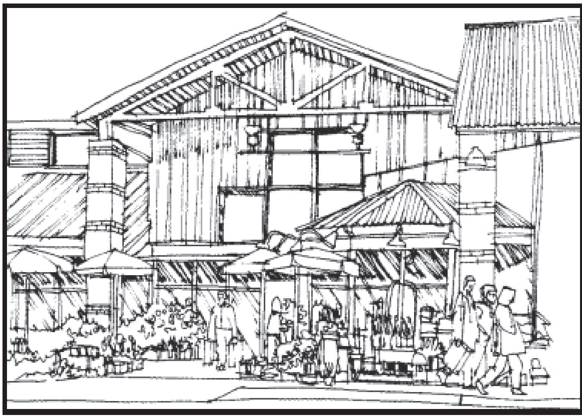

Figure 4 – Example of composing smaller building elements near the entry of large buildings.

(7) Building Design – Architectural Scale. The architectural scale standards are intended to encourage compatibility of structures with nearby commercial areas, to help the building fit in with its context, and to add visual interest to buildings. All facades shall be given equal design consideration. Some flexibility may be given by the director for alley or other facades that are not visible from streets, parks, parking lots, or other uses.

(a) Facade Modulation. All new buildings shall provide modulation (measured and proportioned inflexion or setback in a building's facade) on facades facing a street, common open space, public area, or common parking area as follows:

(i) Buildings with facades that are 30 feet or longer shall provide modulation of the exterior wall that extends through all floors.

(ii) The minimum modulation depth shall be five feet and the minimum modulation width for each modulation shall be 10 feet. On facades that are 100 feet or longer, the minimum depth of modulation shall be 10 feet and the minimum width for each modulation shall be 20 feet.

(iii) The minimum modulation depth detailed in subsection (7)(a)(ii) of this section may be reduced to two feet if tied to a change in color or building materials, and/or roofline modulation as defined in subsection (7)(d) of this section.

(iv) The director may consider departures from these standards, provided the proposed treatment meets or exceeds the intent of these standards.

(b) Street Front Articulation. All building facades fronting directly on a street must include at least two of the following articulation features at intervals no greater than 30 feet (see Figure 5):

(i) Use of window and/or entries that reinforce the pattern of small storefront spaces.

(ii) Use of weather protection features that reinforce the pattern of small storefronts. For example, for a business that occupies three lots, use three separate awnings to break down the scale of the storefronts. Alternating colors of the awnings may be useful as well.

(iii) Change of roofline.

(iv) Articulation of the building's top, middle, and bottom for multistory buildings. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline.

(v) Change in building material or siding style.

(vi) Other methods that meet the intent of these standards.

(c) Articulation for Facades Not Fronting Directly on a Street. All facades not fronting directly on a street, or containing a pedestrian entrance, that are not subject to subsection (7)(b) of this section must include at least three of the following articulation features at intervals no greater than 70 feet:

(i) Use of window and/or entries that reinforce the pattern of small storefront spaces.

(ii) Vertical building modulation. The minimum depth and width of modulation shall be two and four feet, respectively (preferably tied to a change in roofline, building material or siding style).

(iii) Use of weather protection features that reinforce the pattern of small storefronts.

(iv) Change of roofline.

(v) Change in building material or siding style.

(vi) Providing lighting fixtures, trellis, tree, or other landscape feature within each interval.

(vii) Articulation of the building's top, middle, and bottom for multistory buildings. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline.

(viii) Other methods that meet the intent of these standards.

Exception: Alternative articulation methods will be considered by the director provided such treatment meets the intent of the standards and guidelines. For example, use of high-quality building materials (such as brick or stone) with attractive detailing may allow a building to meet the intent of the standards using greater articulation intervals. Also, where the articulated features are more substantial in terms of effectively breaking up the facade into smaller components, then a greater distance between architectural intervals may be acceptable.

(d) Roofline Modulation.

(i) In order to qualify as an articulation element in subsections (7)(a) and (b) of this section or in this subsection, the roofline shall meet the following modulation requirement (see Figure 8):

(A) For flat roofs or facades with horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of the wall) when combined with vertical building modulation techniques described in subsection (7)(b) of this section. Otherwise, the minimum vertical dimension of roofline modulation is the greater of four feet or 0.2 multiplied by the wall height.

(B) Buildings with pitched roofs must include a minimum slope of 5:12 and feature modulated roofline components at the interval required per the applicable standard above.

(ii) For large-scale retail uses (with at least 50,000 square feet of floor area and facades greater than 150 feet in width), the storefront shall integrate a prominent entry feature combining substantial roofline modulation with vertical building modulation and a distinctive change in materials and/or colors (see Figure 10). The minimum vertical dimension of roofline modulation is the greater of six feet or 0.3 multiplied by the wall height (finished grade to top of the wall). The director will consider alternative treatments provided they meet the intent of these standards.

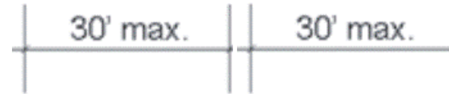

Figure 5 – For commercial buildings built up to the sidewalk, provide facade articulation features at no more than 30-foot intervals.

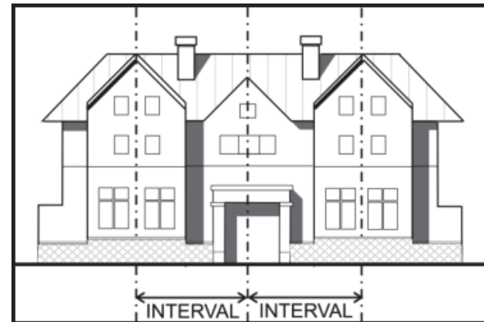

Figure 6 – Building articulation.

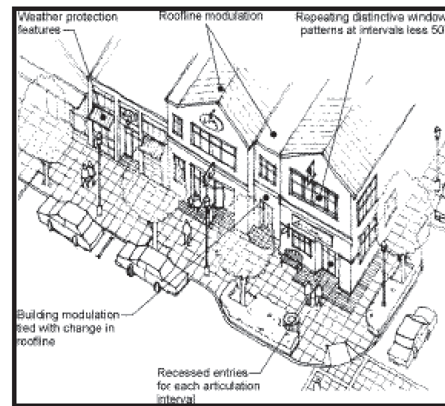

Figure 7 – These buildings illustrate a combination of horizontal building modulation, roofline modulation, and building articulation to reduce the architectural scale and provide visual interest.

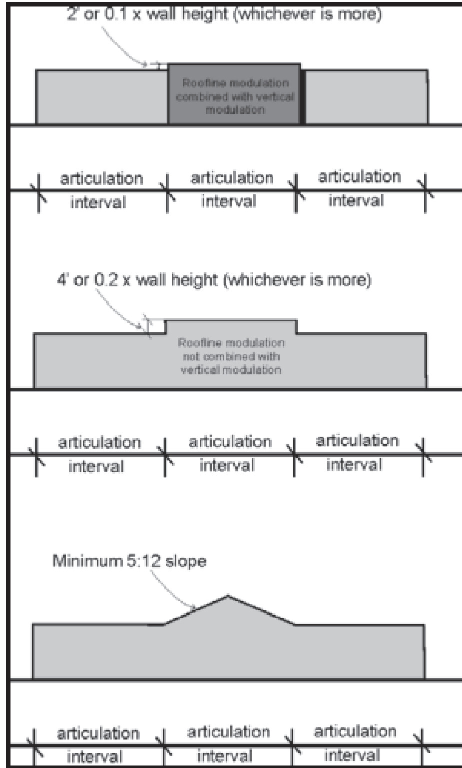

Figure 8 – Roofline modulation standards.

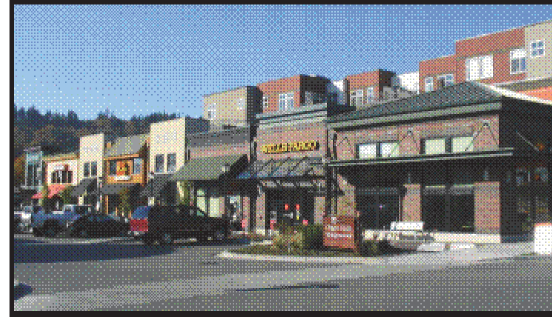

Figure 9 – This development uses a variety of roof forms and heights, different weather protection features, changing building materials and colors, and a modest amount of horizontal building modulation to reduce the overall architectural scale into smaller "storefront" components.

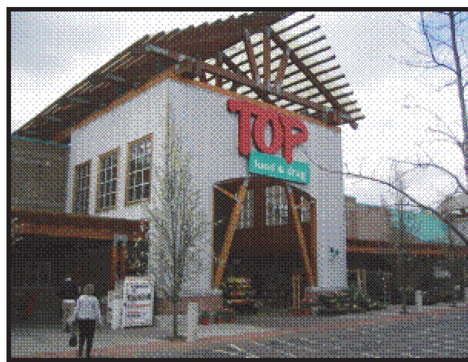

Figure 10 – Good examples of prominent pedestrian entries for large-scale retail uses. Note height change, vertical modulation, use of building materials, colors, and detailing to add interest and emphasis.

(8) Building Corners. The building corners standards are intended to architecturally accentuate building corners at street intersections, to create visual interest, and to increase activity, where appropriate. All new buildings located within 15 feet of a property line at the intersection of streets are required to employ one or more of the following design elements or treatments to the building corner facing the intersection:

(a) Provide at least 100 square feet of pedestrian-oriented space between the street corner and the building(s). To qualify for this option, the building(s) must have direct access to the space;

(b) Provide a corner entrance to courtyard, building lobby, atrium, or pedestrian pathway;

(c) Include a corner architectural element such as:

(i) Bay window or turret.

(ii) Roof deck or balconies on upper stories.

(iii) Building core setback "notch" or curved facade surfaces.

(iv) Sculpture or artwork, either bas-relief, figurative, or distinctive use of materials.

(v) Change of materials.

(vi) Corner windows.

(vii) Special lighting;

(d) Special treatment of the pedestrian weather protection canopy at the corner of the building; and/or

(e) Other similar treatment or element approved by the director.

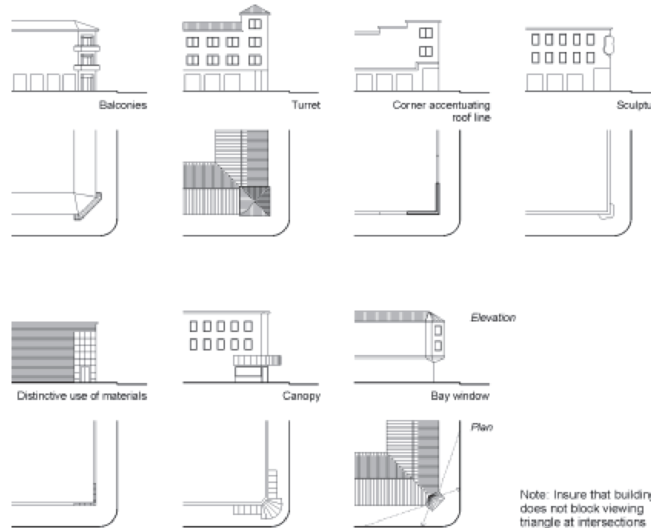

Figure 11 – Corner building treatment.

Figure 12 – Decorative use of windows, change of materials, and special lighting creates a statement at this corner location.

(9) Building Design Details. The building design details standards are intended to ensure that buildings have design interest at all observable distances; to enhance the character and identity of the city; and to encourage creative design. At closer distances, the most important aspects of a building are its design details, texture of materials, quality of its finishes, and small, decorative elements. All new commercial buildings and individual storefronts shall include at least one detail element from each of the three categories below. Other mixtures of detail elements will be considered provided they meet the intent of these standards. The applicant must demonstrate how the amount, type, and mix of details meet the intent of these standards. For example, a large building with multiple storefronts will likely need more than one decorative sign, transom window, and decorative kickplate to meet the intent of these standards.

(a) Window and/or Entry Treatment. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.

(i) Display windows divided into a grid of multiple panes.

(ii) Transom windows.

(iii) Roll-up windows/doors.

(iv) Other distinctive window treatment that meets the intent of the standards and guidelines.

(v) Recessed entry.

(vi) Decorative door.

(vii) Arcade.

(viii) Landscaped trellises or other decorative element that incorporates landscaping near the building entry.

(ix) Other decorative entry treatment that meets the intent of these standards.

(b) Decorative facade attachments:

(i) Decorative weather protection element such as a steel canopy, decorative cloth awning, or retractable awning.

(ii) Decorative, custom hanging, sculptural, or hand-crafted sign(s).

(iii) Decorative building-mounted light fixtures with a diffuse visible light source or unusual fixture.

(iv) Decorative or special railings, grill work, or landscape guards.

(c) Building materials and other facade elements:

(i) Decorative building materials/use of building materials such as decorative masonry, shingle, tile, brick, or stone.

(ii) Individualized patterns or continuous wood details, such as fancy butt shingles (a shingle with the butt end machined in some pattern, typically to form geometric designs), decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, carrera glass, or similar materials. The applicant must submit architectural drawings and material samples for approval.

(iii) Distinctive rooflines, such as an ornamental molding, entablature, frieze, or other roofline device visible from the ground level. If the roofline decoration is in the form of a linear molding or board, then the molding or board must be at least eight inches wide.

(iv) Decorative artwork on the building such as a mosaic mural, bas-relief sculpture, light sculpture, water sculpture, or other similar artwork. Painted murals or graphics on signs or awnings do not qualify.

(v) Decorative kickplate, pier, belt course, or other similar facade element.

(vi) Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees, that exhibit nonstandard designs.

(vii) Other details that meet the intent of the standards and guidelines as determined by the director.

(viii) Decorative elements referenced above must be distinct "one-of-a-kind" elements or unusual designs that require a high level of craftsmanship as determined by the director.

Figure 13 – The building provides a number of details that enhance the pedestrian environment, including decorative lighting, planter boxes, decorative awnings, historical plaques, and decorative facade elements.

(10) Building Materials. The building materials standards are intended to encourage the use of a variety of high-quality, durable materials that will enhance the visual image of the city; provide visual interest and distinct design qualities; and promote compatibility and improvement within surrounding neighborhoods through effective architectural detailing and the use of traditional building techniques and materials. The following standards apply:

(a) Building exteriors shall be constructed from high-quality, durable materials. Building materials such as concrete, masonry, tile, stone and wood are encouraged.

(b) Metal siding, when used for walls that are visible from a public street, public park or open space, pathway, or pedestrian route must:

(i) Have visible corner moldings and trim and incorporate masonry, stone, or other durable permanent materials within two feet of the ground level;

(ii) Incorporate multiple colors or siding materials when the facade is wider than 40 feet;

(iii) Alternative standards may be approved by the director; provided, that the design quality and permanence meet the intent of this section.

(c) Concrete masonry units (CMU) or cinder block walls, when used for walls that are visible from a street, public park or open space, or pedestrian route, shall be architecturally treated in one or more of the following ways:

(i) Use in conjunction with other permitted exterior materials.

(ii) Use of a combination of textured surfaces such as split face or grooved to create distinct banding or other design.

(iii) Use of other masonry types, such as brick, glass block, or tile in conjunction with concrete blocks.

(iv) Use of decorative coursing to break up blank wall areas.

(v) Use of matching colored mortar where color is an element of architectural treatment for any of the options above.

(vi) Other treatment approved by the director.

(d) Exterior insulation and finish system (EIFS) and similar troweled finishes must:

(i) Be trimmed in wood or masonry, and should be sheltered from extreme weather by roof overhangs or other methods in order to avoid deterioration. Weather-exposed horizontal surfaces must be avoided.

(ii) Be limited to no more than 50 percent of the facade area.

(iii) Incorporate masonry, stone, or other durable material for the first two feet above ground level.

(e) Prohibited materials in visible locations unless an exception is granted by the director based on the integration of the material into the overall design of the structure:

(i) Highly tinted or mirrored glass (except stained glass) covering more than 10 percent of the exterior of any building, or located at the ground level along the street.

(ii) Corrugated fiberglass.

(iii) Plywood siding, including T-111 and similar siding. Board and batten is an exception.

(iv) Noncorrugated and highly reflective sheet metal.

(v) Any sheet materials, such as wood or metal siding, with exposed edges or unfinished edges, or made of nondurable materials as determined by the director.

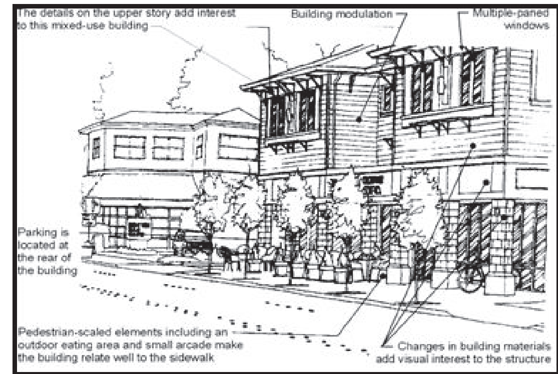

Figure 14 – The use of different building materials, window treatments, and roofline brackets add to the visual interest of this building.

Figure 15 – This storefront effectively combines EIFS and concrete block with wood trim and metal detailing.

(11) Blank Walls.

(a) The blank wall standards are intended to: reduce the visual impact of large, undifferentiated walls; reduce the apparent size of large walls through the use of various architectural and landscaping treatments; enhance the character and identity of the city; and ensure that all visible sides of buildings provide visual interest. Blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot are prohibited. A wall (including building facades and other exterior building walls, retaining walls, and fences) is defined as a blank wall if:

(i) A ground floor wall or portion of a ground floor wall over four feet in height has a horizontal length greater than 15 feet and does not include a transparent window or door; or

(ii) Any portion of a ground floor wall having a surface area of 400 square feet or greater does not include a transparent window or door.

(b) All blank walls visible from a public street, sidewalk, trail, interior pathway, or parking lot shall be treated in one or more of the following measures:

(i) Incorporate transparent windows or doors and/or display windows;

(ii) Install a vertical trellis in front of the wall with climbing vines or plant materials sufficient to obscure or screen at least 60 percent of the wall's surface within three years. For large blank wall areas, the trellis must be used in conjunction with other treatments described below;

(iii) Provide a landscaped planting bed at least five feet wide or a raised planter bed at least two feet high and three feet wide in front of the wall. Plant materials must be able to obscure or screen at least 60 percent of the wall's surface within three years;

(iv) Provide artwork (mosaic, mural, sculpture, relief, etc.) over at least 50 percent of the blank wall surface; and/or

(v) Other method as approved by the director. For example, landscaping or other treatments may not be necessary on a wall that employs high-quality building materials (such as brick) and provides desirable visual interest.

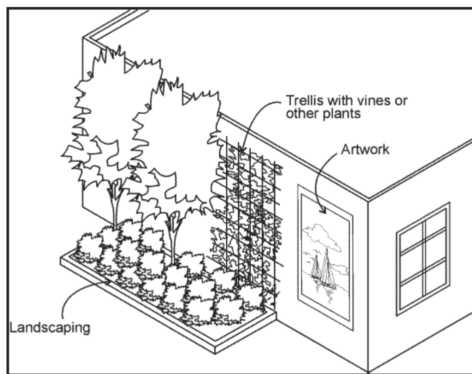

Figure 16 – Blank wall treatments.

Figure 17 – Terraced planting beds effectively screen a large blank wall.

(12) Building Entrances. The intent of the building entrances standards is to ensure that buildings are inviting and accessible, that entrances are easy to locate, and that pedestrian activity is encouraged.

(a) Primary Building Entrances. The principal building entrances of all buildings shall feature the following improvements, unless the director determines an alternate solution better addresses the guideline's intent:

(i) Weather Protection. Weather protection at least five feet deep and at least eight feet above ground level is required over the primary entrance to all commercial buildings. Entries may satisfy this requirement by being set back into the building facade.

(ii) Lighting. Pedestrian entrances must be lit to at least four foot candles as measured on the ground plane for commercial buildings.

(iii) Visibility and Accessibility. Building entrances must be prominent and visible from the surrounding streets and must be connected by a walkway to the public sidewalk. Pedestrian pathways from public sidewalks to primary entrances or from parking lots to primary entrances shall be accessible, conforming to federal and state Americans with Disabilities Act requirements, and shall be clearly delineated.

(iv) Transparency. Entries must feature glass doors, windows, or glazing (window area) near the door so that the visitor and occupant can view people opening the door from the other side.

Figure 18 – A distinct, weather-protected primary building entrance.

(b) Secondary Public Access for Commercial Buildings. Buildings with "secondary" entrances off of a parking lot shall comply with the following measures to enhance secondary public access (applies only to entries used by the public):

(i) Weather protection at least three feet deep and at least eight feet above the ground is required over each secondary entry.

(ii) Two or more of the design elements must be incorporated within or adjacent to the secondary entry:

(A) A transparent window or door to allow visibility into the building;

(B) A landscape bed, trellis, or other permanent landscape element adjacent to the entry;

(C) Decorative architectural treatments that add visual interest to the entry;

(D) Outdoor dining or pedestrian-oriented space;

(E) Decorative lighting; or

(F) Other design elements that meet the intent of these standards as determined by the director.

Figure 19 – Examples of secondary public access. Note the planters, window signs, and awnings.

(Ord. 2927 § 10, 2013; Ord. 2870 § 7, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.260 Commercial, multiple-family, townhome, and group residences – Vehicular access and parking location.

(1) On sites abutting an alley, commercial, apartment, townhome and all group residence 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. 2852 § 10 (Exh. A), 2011).

22C.020.265 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 storefront 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. 2852 § 10 (Exh. A), 2011).

22C.020.270 Open space and recreation space required.

The on-site open space and recreation space standards are intended to provide usable, accessible, and inviting open space for residents that enhances residential areas. Multifamily residential uses in the mixed use zone shall provide open space equivalent to at least 20 percent of the building's gross floor area; vertical mixed use developments (where commercial and multifamily uses are contained in the same building) shall not be subject to this requirement; provided, that at least 80 percent of the ground floor is exclusively dedicated to commercial uses and residential uses shall be limited to walls not oriented or located along the street. The required area may be satisfied with one or more of the elements listed below:

(1) Common open space accessible to all residents shall count for up to 100 percent of the required open space. This includes landscaped courtyards or decks, gardens with pathways, children's play areas, or other multipurpose recreational and/or green spaces. Special requirements and recommendations for common spaces include the following:

(a) Space shall be large enough to provide functional leisure or recreational activity area per the director. For example, long narrow spaces less than 20 feet wide rarely, if ever, can function as usable common open space.

(b) Consider space as a focal point of development.

(c) Open space, particularly children's play areas, shall be visible from dwelling units and positioned near pedestrian activity.

(d) Space shall feature paths, plantings, seating, lighting and other pedestrian amenities to make the area more functional and enjoyable.

(e) Individual entries shall be provided onto common open space from adjacent ground floor

residential units. Small, semi-private open spaces for adjacent ground floor units that maintain visual access to the common area are strongly encouraged to enliven the space.

(f) Separate common space from ground floor windows, streets, service areas and parking lots with landscaping and/or low-level fencing, where desirable.

(g) Space shall be oriented to receive sunlight, facing east, west, or (preferably) south, when possible.

(h) Required setbacks, landscaping, driveways, parking, or other vehicular use areas shall not be counted toward the common open space requirement.

(i) Rooftops or rooftop decks shall not be considered as common open space for the purpose of calculating minimum open space area; provided, that the director may consider rooftops or rooftop decks as common open space where usable open space amenities are provided and available to all residents.

(j) Outdoor open space shall not include areas devoted to parking or vehicular access.

(2) The following amenities may be used to satisfy up to 50 percent of the open space requirement. A combination of these amenities may be provided in different ratios; provided, that (i) the total credit for any combination of the following amenities may not exceed 50 percent of the open space requirement, and (ii) the amount of the amenity provided is sufficient to achieve the purpose of the amenity as determined by the director:

(a) Individual balconies that provide a space usable for human activity. To qualify, the balconies shall be at least 35 square feet and have no dimension less than four feet.

(b) Natural areas that function as an amenity to the development, subject to the following requirements and recommendations:

(i) The natural area shall be accessible to all residents. For example, safe and attractive trails provided along or through the natural area where they could serve as a major amenity to the development.

(ii) Steep slopes, wetlands, or similar unbuildable areas shall not be counted in the calculations for required open space unless they provide a visual amenity for all units, as determined by the director.

(c) Storm water retention areas if the facility has natural looking edges, natural vegetation, and no fencing except along the property line. The design of such areas shall go well beyond functional storm water requirements per the director in terms of the area involved and the quality of landscaping and resident amenities. The side slope of the storm water facilities shall not exceed a grade of 1:3 (one vertical to three horizontal) unless slopes are existing, natural, and covered with vegetation.

(3) Children's play equipment and recreational activity space for children and/or teens that include parent seating areas are required in residential complexes with 20 or more units. Exceptions: age-restricted senior citizen housing; mixed use developments (combined commercial and residential in same building); developments reserved for student housing; infill lots within the downtown master plan area; and developments located within a quarter mile of safe walking distance to a public park that features a play area.

(4) Active recreation facilities may be provided, subject to the following:

(a) Active recreation facilities may include, but are not limited to, exercise rooms, sports courts, swimming pools, tennis courts, game rooms, or community centers; and

(b) 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.

Figure 20 – Balconies provide private, usable open space for residents.

Figure 21 – A residential courtyard providing semi-private patio spaces adjacent to individual units.

Figure 22 – Children's play area incorporated into a multifamily development.

(Ord. 2927 § 11, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.280 Townhouse open space.

Townhouses and other ground based multifamily residential units with individual exterior entries must provide at least 200 square feet of private open space per dwelling unit adjacent to, and directly accessible from, each dwelling unit. This may include private balconies, individual rear yards, landscaped front yards, and covered front porch areas. Exception: Common open space designed in accordance with MMC 22C.020.270(1) may substitute for up to 50 percent of each unit's required private or semi-private open space on a square foot per square foot basis.

Figure 23 – Common open space for a townhouse development.

Figure 24 – These townhouses provide balconies and semi-private yard space.

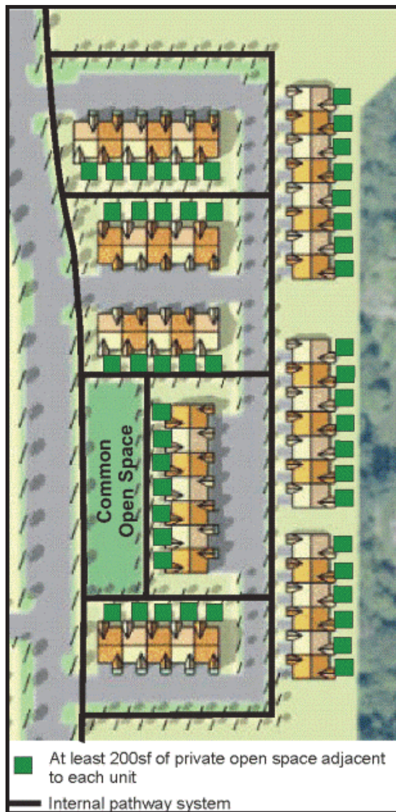

Figure 25 – Example townhouse configuration with a combination of private open spaces adjacent to units and larger common open space accessible to all units.

(Ord. 2927 § 12, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.290 Maintenance or dedication of open space and recreation space.

(1) Unless the open space or recreation space is dedicated to the city pursuant to subsection (2) of this section, maintenance of any open space or 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) Open space or recreation space may be dedicated as a public park when the following criteria are met:

(a) The dedicated area is at least one and one-half 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. 2927 § 13, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.300 On-site recreation – Fee in lieu of open space or recreation space.

Nothing herein shall prohibit voluntary agreements with the city that allow a payment in lieu of providing on-site recreation space when a proposed development is located within one-quarter mile of an existing or proposed recreational facility. (Ord. 2927 § 14, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.310 On-site recreation – Acceptance criteria for fee in lieu of open space or recreation space.

City acceptance of this payment is discretionary, and may be permitted if:

(1) The proposed on-site open space or recreation space does not meet the criteria of MMC 22C.020.290(2); or

(2) The open space or recreation space provided within a public park in the vicinity will be of greater benefit to the prospective residents of the development. (Ord. 2927 § 15, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.320 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. 2852 § 10 (Exh. A), 2011).

22C.020.330 Fences.

(1) Purpose. The fence standards promote the positive benefits of fences without negatively affecting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access and the safe movement of pedestrians and vehicles, and create an unattractive appearance.

(2) Types of Fences.

(a) The standards apply to walls, fences, trellises, arbors and screens of all types whether open, solid, wood, metal, wire, masonry or other material.

(b) No barbed or razor-wire fence shall be permitted, except for the following:

(i) Industrial zones.

(ii) Confinement of livestock.

(iii) Public facilities, transmitter and transformer sites.

(iv) Government installations where security or public safety is required.

(v) Automobile holding yards and similar businesses if required under state law.

(3) Height.

(a) Business and Commercial Zones. All yards: eight feet.

(b) Industrial Zones. All yards: 10 feet.

(c) When a protective fence is located on top of a rockery, any portion of the fence above a height of eight feet shall be an open-work fence.

(d) 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 trans-

former sites, and government installations where security or public safety is required.

(e) 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.

(f) 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.

(4) Setbacks.

(a) Front Lot Line.

(i) Solid fences greater than four feet in height shall be set back at least 20 feet from the street right-of-way, except in the following circumstances:

(A) For a corner lot, the 20-foot setback shall only apply to the street which provides primary access to the lot.

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(B) 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.

(ii) 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.

(b) Side lot line: No setback requirement.

(c) Rear lot line: No setback requirement.

(d) For special rules relating to fences and walls near fire hydrants, see MMC 14.03.050(2) and the International Fire Code.

(5) Fence Variances.

(a) The community development director shall have authority to administratively grant a variance to the fence requirements outlined in this section. The community development 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.

(b) Variance requests shall be submitted in writing on a form provided by the city. At the time the applicant submits the variance request to the city, the applicant shall also provide written notification of the variance request to immediately adjoining property owners by first class mail or personal service. Said notice shall include an adequate description of the height and location of the proposed fence.

(c) In considering a request for a modification of the fence requirements outlined in subsections (1) through (4) of this section, the community development director shall consider the following factors:

(i) 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;

(ii) The proposed fence will not infringe upon or interfere with utility and/or access easements or covenant rights or responsibilities;

(iii) The increased fence height will not adversely affect adjacent property owners;

(iv) Fences greater than six feet in height are required to obtain a city building permit;

(v) 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.

(d) Each variance request shall be considered on a case-by-case basis, and the resulting decision shall not be construed as setting precedent for any subsequent application.

(e) The decision of the community development director on a variance application shall be final, subject to appeal to the city hearing examiner pursuant to the procedures in Chapter 22G.010 MMC, Article VIII, Appeals. Appeals shall be filed within 14 calendar days of the written decision of the community development director. (Ord. 2898 § 6, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.020.340 Special limitations in the business and commercial zones.

(1) 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.

(2) Mechanical equipment located on the roof, facade or external portions of a building shall be architecturally screened so as not to be visible from adjacent properties at street level or the public street.

(3) Equipment or vents which generate noise or air emissions shall be located on the opposite side of the building from adjoining residentially designated properties. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.350 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 per-

mitted, 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 and 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. 2852 § 10 (Exh. A), 2011).

22C.020.360 Nonconforming situations.

Existing developments that do not conform to the development standards of this chapter are subject to the standards of Chapter 22C.100 MMC, Nonconforming Situations. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.370 Parking and loading.

The standards pertaining to the required number of auto parking spaces, bicycle parking spaces, parking lot placement, parking lot setbacks and internal parking lot pedestrian connections are stated in Chapter 22C.130 MMC, Parking and Loading. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.380 Signs.

The sign standards are stated in Chapter 22C.160 MMC, Signs. (Ord. 2852 § 10 (Exh. A), 2011).

22C.020.390 Landscaping and screening.

The landscaping and screening standards are stated in Chapter 22C.120 MMC, Landscaping and Screening. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.030

ADULT FACILITIES OVERLAY ZONE

Sections:

22C.030.010 Purpose.
22C.030.020 Authority.
22C.030.030 General provisions.
22C.030.040 Location.
22C.030.050 Permitted uses.
22C.030.060 Existing adult facilities.
22C.030.070 Violation.

22C.030.010 Purpose.

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 this title 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 pre-existing 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. This chapter provides 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 this code on individual sites; and

(2) Establishing the adult facilities overlay zone with alternative standards for special areas designated by the comprehensive plan or neighborhood plans. (Ord. 2852 § 10 (Exh. A), 2011).

22C.030.020 Authority.

(1) This chapter authorizes the city of Marysville to increase development standards or limit uses on specific properties beyond the general requirements of this 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) The adult facilities overlay zone shall be applied to specific properties or areas containing several properties through zoning reclassification as provided in MMC 22G.010.420. (Ord. 2852 § 10 (Exh. A), 2011).

22C.030.030 General provisions.

Adult facilities overlay zones shall be designated on the city zoning map as follows:

(1) Designation of the adult facilities overlay zone shall include policies that prescribe the purposes and location of the overlay;

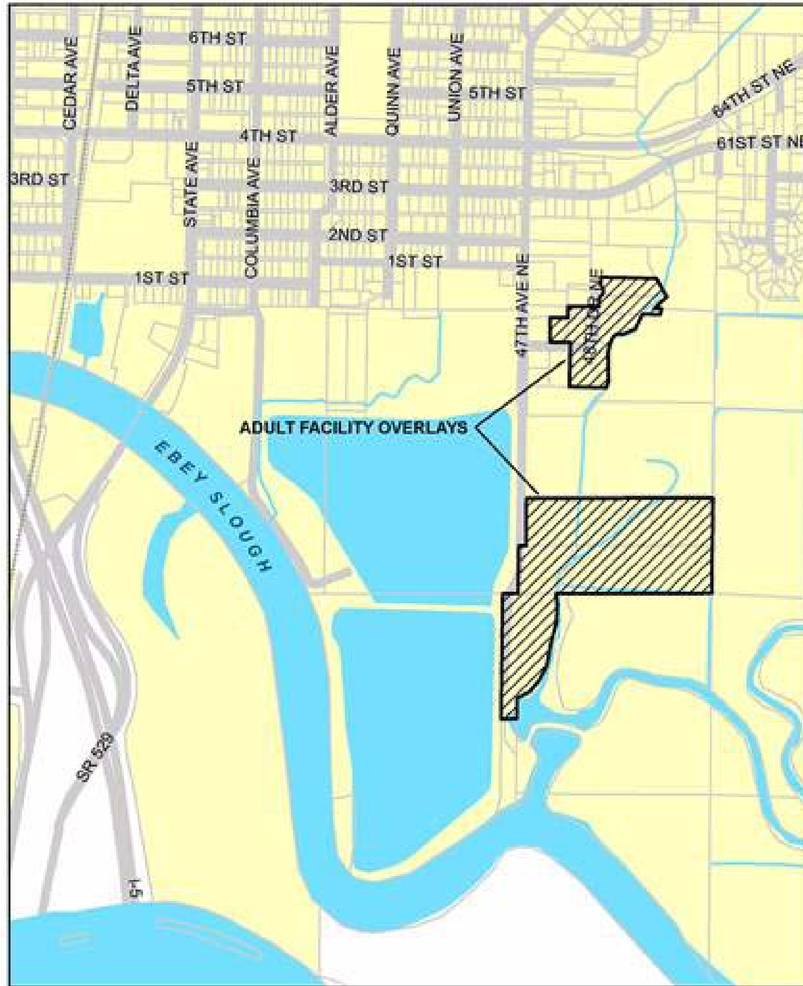
(2) An adult facilities overlay zone shall be indicated on the zoning map with the suffix "-AF" following the map symbol of the underlying zone or zones;

(3) The adult facilities overlay zones set forth in this chapter may expand the range of permitted uses and development standards established by this code for any use or underlying zone; and

(4) Unless they are specifically modified by the provisions of this chapter, the standard requirements of this code and other city ordinances and regulations govern all development and land uses within the adult facilities overlay zone. (Ord. 2852 § 10 (Exh. A), 2011).

22C.030.040 Location.

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 following map:



City of Marysville

Adult Facility Overlay Zone

(Ord. 2852 § 10 (Exh. A), 2011).

22C.030.050 Permitted uses.

The following uses shall be permitted in the adult facilities overlay zone:

(1) Adult facilities.

(2) All uses allowed in the underlying zone. (Ord. 2852 § 10 (Exh. A), 2011).

22C.030.060 Existing adult facilities.

Notwithstanding the provisions of Chapter 22C.100 MMC relating to nonconforming uses, any adult facility lawfully existing and operating on the effective date of the ordinance codified in this chapter 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:

(1) 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.

(2) If the adult facility or use is vacated, abandoned or closed for a continuous period of 180 days, the nonconforming status shall be lost.

(3) The adult facility or use cannot be expanded into additional buildings or areas of buildings on the property.

(4) All other codes, ordinances, regulations and statutes shall be complied with in full.

(5) 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 22G.060 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.030.070 Violation.

(1) 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.

(2) 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. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.040

MIXED USE – SPECIAL DISTRICT

Sections:

22C.040.010 Purpose.
22C.040.020 Authority.
22C.040.030 Applicability.
22C.040.040 General performance standards.
22C.040.050 General design requirements.

22C.040.010 Purpose.

(1) This chapter provides for alternative development standards to address unique site characteristics and to address development opportunities which can exceed the quality of standard developments, by:

(a) Establishing authority to adopt property-specific development standards for increasing minimum requirements of this code on individual sites; and

(b) Establishing special districts and overlay zones with alternative standards for special areas designated by the comprehensive plan or neighborhood plans.

(2) The purpose of the mixed use (MU) zone, and mixed use special district, 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.040.020 Authority.

(1) This chapter authorizes the city of Marysville to increase development standards or limit uses on specific properties beyond the general requirements of this code through property-spe-

cific development standards, and to carry out comprehensive plan policies through special districts which supplement or modify standard zones through different uses, design or density standards or review processes.

(2) A zoning reclassification, as provided in MMC 22G.010.420, must be submitted if a site is located in a designated mixed use 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.040.030 Applicability.

(1) 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.

(2) 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 ensure continuity of plan development. (Ord. 2852 § 10 (Exh. A), 2011).

22C.040.040 General performance standards.

All development within the mixed use zone, or mixed use – special district, shall strictly comply with the following general performance standards:

(1) Preliminary and final plans must comply with bulk regulations contained in this chapter and Chapter 22C.020 MMC.

(2) All proposed sites shall be served by public water and sewer services and paved streets.

(3) Open space/recreation facilities shall be provided as outlined in MMC 22C.020.270 through 22C.020.310.

(4) Vehicular Access and Traffic.

(a) 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.

(b) Developments which provide both residential and nonresidential uses may be eligible for an appropriate traffic mitigation fee reduction.

(c) Pedestrian access shall be a priority in review of the vehicular access plan.

(d) Access points on arterial streets shall be coordinated with adjacent properties in order to limit the overall number of access points.

(5) 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.

(6) Parking. Off-street parking for residential and nonresidential uses shall comply with Chapter 22C.130 MMC. 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:

(a) No less than one space for every 1,000 square feet of nonresidential floor area shall be provided;

(b) 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.

(7) Lighting. Outdoor lighting shall not shine on adjacent properties, rotate or flash.

(8) Utilities. All new utility services and distribution lines shall be located underground.

(9) 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 Engineering Design and Development Standards, credit will be given on a square footage basis for any dedication of the additional right-of-way.

(10) Signs. Signs shall comply with the requirements of Chapter 22C.160 MMC.

(11) 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 the mixed use zones, and mixed use – special districts, including parking requirements, storm drainage requirements, sign regulations, and noise regulations.

(12) 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. 2852 § 10 (Exh. A), 2011).

22C.040.050 General design requirements.

All development within the mixed use zones, and mixed use – special districts, shall strictly comply with the following general design requirements:

(1) Vehicular Access and Parking Location.

(a) 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 community development director due to physical site limitations;

(b) When alley access is available, and provides adequate access for the site, its use will be encouraged;

(c) No more than 30 percent of the site street frontage can be used for parking or driveways;

(d) Direct parking space access to an alley may be used for parking lots with five or fewer spaces.

(2) 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). (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.050

SMALL FARMS OVERLAY ZONE

Sections:

22C.050.010 Purpose.
22C.050.020 Applicability.
22C.050.030 Authority.
22C.050.040 General provisions.
22C.050.050 Permitted uses in small farms overlay zone.
22C.050.060 Approval requirements.
22C.050.070 Small farm protections.
22C.050.080 Bulk and dimensional requirements.
22C.050.090 Notification requirements.
22C.050.100 Disclosure text.
22C.050.110 Appeals to hearing examiner.
22C.050.120 Time period stay – Effect of appeal.
22C.050.130 Appeals to court.

22C.050.010 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. This chapter provides alternative development standards to address unique site characteristics and addresses 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 this code on individual sites; and

(2) Establishing the small farms overlay zone with alternative standards for special areas designated by the comprehensive plan or neighborhood plans. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.020 Applicability.

This chapter 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.030 Authority.

(1) This chapter authorizes the city of Marysville to increase development standards or limit uses on specific properties beyond the general requirements of this code through property-spe-

cific 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) The small farms overlay zone shall be applied to specific properties or areas containing several properties through zoning reclassification as provided in MMC 22G.010.420. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.040 General provisions.

Small farms overlay zones shall be designated on the city zoning map as follows:

(1) Designation of a small farms overlay zone shall include policies that prescribe the purposes and location of the overlay;

(2) A small farms overlay zone shall be indicated on the zoning map with the suffix "-SF" following the map symbol of the underlying zone or zones;

(3) The small farms overlay zone may expand the range of permitted uses and development standards established by this code for any use or underlying zone; and

(4) Unless they are specifically modified by the provisions of this chapter, the standard requirements of this code and other city ordinances and regulations govern all development and land uses within the small farms overlay zones. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.050 Permitted uses in small farms overlay zone.

The following uses are permitted in the small farms overlay zone:

(1) Horticulture.

(2) Floriculture.

(3) Viticulture.

(4) Animal husbandry.

(5) Production of seed, hay and silage.

(6) Christmas tree farming.

(7) Aquaculture.

(8) Roadside stands, subject to the following standards:

(a) Roadside stands not exceeding 300 square feet in area.

(b) Roadside stands shall be exclusively for the sale of products produced on the premises, from the above listed uses.

(c) 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.

(9) One single-family dwelling per lot shall be allowed, together with accessory structures and uses. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.060 Approval requirements.

Administrative approval for the small farms overlay shall be requested by the property owner and shall be granted by the community development director if the following requirements are met:

(1) The minimum lot size shall be 100,000 square feet (2.3 acres). Smaller tracts shall be permitted if such tracts were in existence and in agricultural use on, or before, enactment of Ordinance 2131 (June 9, 1992).

(2) The use of the property is an existing and ongoing agricultural activity, as defined in MMC 22A.020.060, or, in the case of a new small farm larger than 2.3 acres, the property will be used for such agricultural activity.

(3) The applicant pays a registration fee of $50.00.

(4) The property owner provides the legal description and street address of the subject property.

(5) In the case of new small farms, the applicant shall submit a site plan which includes the following additional information:

(a) Existing and/or proposed structures and required setbacks;

(b) Drainage channels, watercourses, marshes, lakes and ponds;

(c) Fences, proposed grazing/exercise areas;

(d) Distance of adjacent dwellings to the subject site's property boundaries and buildings;

(e) Method of manure disposal; and

(f) Any regulated critical areas such as wetlands, streams, geologic hazard areas or wildlife habitat. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.070 Small farm protections.

(1) 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 this 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.

(2) 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.

(3) New subdivisions located adjacent to tracts granted the small farms overlay shall provide a six-foot-high, sight-obscuring chain-link fence 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:

(a) Protected critical areas and related buffers may be utilized, if directly adjacent to the small farms overlay zone; or

(b) An existing vegetative buffer which provides adequate screening and separation between the small farm use and the proposed subdivision.

The applicant shall demonstrate to the community development department that the alternative screening method proposed provides the greatest amount of protection relative to the type of adjacent agricultural use. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.080 Bulk and dimensional requirements.

Bulk and dimensional requirements shall be consistent with the underlying residential zoning classification, as set forth in Chapter 22C.010 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.090 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 designation:

(1) Signs. When the community development department determines that the proposed overlay request meets all the requirements as specified in MMC 22C.050.060, 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 community development department. All signs designed herein are exempt from the city's land use standards 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.

(2) 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.

(3) Upon receipt of a complete application, the city shall cause one notice of application to be published in the official newspaper.

(4) 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.100 Disclosure text.

(1) Subject to subsections (2) and (3) 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.

(2) Prior to the closing of a transfer of real property within the small farms overlay zone, or real property adjacent to or within 300 feet of the small farms 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 community development 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 small farms overlay designation is removed.

(3) Development permits and building permits for land within the small farms overlay zone or land adjacent to or within 300 feet of land within the small farms overlay zone shall include the disclosure text in this section on the final development or building permit in a location determined by the community development 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.110 Appeals to hearing examiner.

(1) 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 community development department 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 constitute a recommendation to the city council, pursuant to MMC 22G.060.130.

(3) Standing to appeal is limited to the following:

(a) The applicant or owner of the property on which the small farms overlay is proposed; and

(b) Any aggrieved person that will thereby suffer a direct and substantial impact from the proposed overlay zone. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.120 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.050.130 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.060

SMOKEY POINT MASTER PLAN AREA – DESIGN REQUIREMENTS

Sections:

22C.060.010 Purpose.
22C.060.020 Applicability and interpretations.

22C.060.010 Purpose.

The purpose of this chapter is to apply the design guidelines in the Smokey Point master plan, as adopted by Ordinance No. 2738, as legally required standards for all new construction in the Smokey Point master plan area (MPA). It is also the purpose of this chapter to:

(1) Encourage the realization and creation of a desirable and aesthetic environment in the Smokey Point MPA;

(2) Establish a commercial/light industrial park that, based on the allowable uses in the zoning designations, provides jobs for the residents of Marysville and expands the city's commercial/light industrial base;

(3) Encourage and promote development which features amenities and excellence in site planning, streetscape, building design and contribution to community charm;

(4) Provide design guidance that coordinates the "look and feel" of the project while ensuring ecological and environmental responsibility and providing for efficient functioning of the Smokey Point MPA;

(5) Bring the range of uses together by individual site plans that will:

(a) Demonstrate how the elements of the site relate to the street front;

(b) Provide for compatibility with adjacent land uses;

(c) Provide protection or mitigation of natural features;

(d) Enhance street fronts and street corners;

(e) Promote public safety;

(f) Incorporate service areas and storm water facilities in a nonobtrusive manner; and

(g) Provide convenient pedestrian and vehicle circulation connecting on-site activities with adjacent pedestrian routes and streets. (Ord. 2852 § 10 (Exh. A), 2011).

22C.060.020 Applicability and interpretations.

(1) Applicability.

(a) The design guidelines set forth in the Smokey Point master plan, as adopted by Ordinance No. 2738, shall apply to all new construction in the Smokey Point MPA.

(b) The design guidelines shall be legally required standards, which shall be applied by the city to all development approvals and permits in the Smokey Point MPA.

(c) The following activities shall be exempt from these standards:

(i) Construction activities which do not require a building permit;

(ii) Interior remodels of existing structures;

(iii) Modifications or additions to existing commercial, industrial 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.

(d) 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.

(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," "will," and "is/are required," or words with their equivalent meaning, 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," or words with its equivalent meaning, 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," or words with their equivalent meaning, 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.070

EAST SUNNYSIDE/WHISKEY RIDGE MASTER PLAN AREA – DESIGN REQUIREMENTS

Sections:

22C.070.010 Purpose.
22C.070.020 Applicability and interpretations.

22C.070.010 Purpose.

The purpose of this chapter is to apply the design standards and guidelines in the East Sunnyside/Whiskey Ridge Design Standards and Guidelines and the East Sunnyside/Whiskey Ridge Streetscape Design Plan, as adopted by Ordinance No. 2762, as legally required standards for all new construction in the East Sunnyside/Whiskey Ridge master plan area (MPA). It is also the purpose of this chapter to:

(1) Encourage the realization and creation of a desirable and aesthetic environment in the East Sunnyside/Whiskey Ridge MPA;

(2) Encourage and promote development which features amenities and excellence in site planning, streetscape, building design and contribution to community aesthetic appeal;

(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, in order to create economic and social vitality and encourage the linking of vehicle trips;

(6) Develop commercial and mixed use areas that are safe, comfortable and attractive to pedestrians;

(7) Support the use of 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. 2852 § 10 (Exh. A), 2011).

22C.070.020 Applicability and interpretations.

(1) Applicability.

(a) The design guidelines set forth in the East Sunnyside/Whiskey Ridge master plan, as adopted by Ordinance No. 2762, shall apply to all new construction in the East Sunnyside/Whiskey Ridge MPA.

(b) The design guidelines shall be legally required standards, which shall be applied by the city to all development approvals and permits in the East Sunnyside/Whiskey Ridge MPA.

(c) The following activities shall be exempt from these standards:

(i) Construction activities which do not require a building permit;

(ii) Interior remodels of existing structures;

(iii) 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.

(d) 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.

(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," or words with their equivalent meaning, 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," or words with its equivalent meaning, 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," or words with their equivalent meaning, 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.080

DOWNTOWN MASTER PLAN AREA – DESIGN REQUIREMENTS

Sections:
22C.080.010 Purpose.
22C.080.020 Applicability and interpretations.

22C.080.010 Purpose.

The purpose of this chapter is to apply the guidelines in the downtown master plan, as adopted by Ordinance No. 2788, as legally required standards for new construction in the downtown master plan area (MPA). It is also the purpose of this chapter to:

(1) Encourage the realization and creation of a desirable and aesthetic environment in the downtown MPA;

(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) Implement the city's comprehensive plan vision, which calls for a vibrant, pedestrian-friendly mixed-use center that includes an accessible and revitalized waterfront, active core, and enhanced design and landscaped setting; and

(6) Ensure attractive, functional development, promote social and economic vitality, and foster safety, comfort, interest, and identification between people and the downtown. (Ord. 2852 § 10 (Exh. A), 2011).

22C.080.020 Applicability and interpretations.

(1) Applicability.

(a) The guidelines set forth in the downtown master plan, as adopted by Ordinance No. 2788, shall apply to new construction in the downtown MPA, as set forth in A.3 of the guidelines.

(b) The guidelines shall be legally required standards, which shall be applied by the city to development approvals and permits in the downtown MPA, as set forth in A.3 of the guidelines.

(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 and downtown master plan. The city's community development director (hereinafter referred to as "director") retains full authority to determine whether a proposal meets these standards.

(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," or words with their equivalent meaning, 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," or words with its equivalent meaning, 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," or words with their equivalent meaning, 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.085

88TH STREET MASTER PLAN – DESIGN REQUIREMENTS

Sections:

22C.085.010 Purpose.
22C.085.020 Applicability and interpretations.

22C.085.010 Purpose.

The purpose of this chapter is to apply the design standards and guidelines in the 88th Street master plan, as adopted by Ordinance No. 2865, as legally required standards for all new construction in the 88th Street master plan area (88th Street MPA). It is also the purpose of this chapter to:

(1) Encourage the realization and creation of a desirable and aesthetic environment in the 88th Street MPA;

(2) Encourage and promote development which features amenities and excellence in site planning, streetscape, building design and contribution to community aesthetic appeal;

(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, in order to create economic and social vitality and encourage the linking of vehicle trips;

(6) Develop mixed use areas that are safe, comfortable and attractive to pedestrians;

(7) Support the use of 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. 2865 § 4, 2011).

22C.085.020 Applicability and interpretations.

(1) Applicability.

(a) The design guidelines set forth in the 88th Street master plan, as adopted by Ordinance No. 2865, shall apply to all new construction in the 88th Street MPA.

(b) The design guidelines shall be legally required standards, which shall be applied by the city to all development approvals and permits in the 88th Street MPA.

(c) The following activities shall be exempt from these standards:

(i) Construction activities which do not require a building permit;

(ii) Interior remodels of existing structures;

(iii) 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.

(d) These standards are intended to supplement the development standards in the Marysville Municipal Code. Where these standards and the land use 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 community development director (director) retains full authority to determine whether a proposal meets these standards.

(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," or words with their equivalent meaning, 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," or words with its equivalent meaning, mean 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," or words with their equivalent meaning, 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. The director will determine if the intent of the standard has been met. (Ord. 2865 § 4, 2011).

Chapter 22C.090

RESIDENTIAL DENSITY INCENTIVES

Sections:

22C.090.010 Purpose.
22C.090.020 Permitted locations of residential density incentives.
22C.090.030 Public benefits and density incentives.
22C.090.040 Density bonus recreation features.
22C.090.050 Rules for calculating total permitted dwelling units.
22C.090.060 Review process.
22C.090.070 Minor adjustments in final site plans.
22C.090.080 Applicability of development standards.

22C.090.010 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 creation of quality places and livable neighborhoods, affordable housing, open space protection, historic preservation, energy conservation, and environmentally responsible design 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. 2852 § 10 (Exh. A), 2011).

22C.090.020 Permitted locations of residential density incentives.

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

(1) In R-12 through R-28 zones;

(2) Planned residential developments;

(3) In MU, CB, GC and DC zones; and

(4) SF, MF, and MU zones within the Whiskey Ridge master plan. (Ord. 2852 § 10 (Exh. A), 2011).

22C.090.030 Public benefits and density incentives.

(1) The public benefits eligible to earn increased densities, and the maximum incentive to be earned by each benefit, are set forth in subsection (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. Where a range is specified, the earned credit will be determined by the community development director during project review.

(2) Bonus dwelling units may be earned through any combination of the listed public benefits.

(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.
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. Public Facilities (Schools, Public Buildings or Offices, Trails and Active Parks) a. Dedication of public facilities site or trail right-of-way meeting city of Marysville or agency location and size standards for the proposed facility type.	10 bonus units per usable acre of public facility land or one-quarter mile of trail exceeding the minimum requirements outlined in other sections of this title.

Benefit	Density Incentive
b. Improvement of dedicated public facility site to city of Marysville standards for the proposed facility type.	2 – 10 (range dependent on facility improvements) bonus units per acre of improvement. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
c. Improvement of dedicated trail segment to city of Marysville standards.	1.8 bonus units per one-quarter mile of trail constructed to city standard for pedestrian trails; or 2.5 bonus units per one-quarter mile of trail constructed to city standard for multipurpose trails (pedestrian/bicycle/equestrian). Shorter segments shall be awarded bonus units on a pro rata basis. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
d. Dedication of open space, meeting city of Marysville acquisition standards, to the city, county or a qualified public or private organization such as a nature conservancy.	2 bonus units per acre of open space.
3. Community Image and Identity a. Installation and/or dedication of an identified city gateway (per city of Marysville gateways master plan).	5 bonus units per “medium scale – cantilevered” gateway installation (final design, landscaping and signage). 6 bonus units per “large scale – horizontal” gateway installation (final design, landscaping and signage). 10 bonus units per “informational reader board” gateway installation (final design, landscaping and signage). 10 bonus units per civic space gateway (Comeford Park) improvement (final design, landscaping and signage). 5 bonus units per large gateway improvement (final design, landscaping and signage).
4. 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.	0.5 bonus unit per acre of historic site.
b. Restoration of a site or structure designated as an historic landmark.	0.5 bonus unit per acre of site or 1,000 square feet of floor area of building restored.
5. Locational/Mixed Use a. Developments located within one-quarter mile of transit routes, and within one mile of fire and police stations, medical, shopping, and other community services.	5 percent increase above the base density of the zone.

Benefit	**Density Incentive**
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.
6. Storm Drainage Facilities Dual use retention/detention facilities. a. Developments that incorporate active recreation facilities that utilize the storm water facility tract.	5 bonus units per acre of the storm water facility tract used for active recreation.
b. Developments that incorporate passive recreation facilities that utilize the storm water facility tract.	2 bonus units per acre of the storm water facility tract used for passive recreation.
7. 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.	5 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. Project area assembly involving 20 acres or more, incorporating a mixture of housing types (detached/attached) and densities.	10 percent increase above the base density of the zone.
d. Private park and open space facilities integrated into project design.	5 bonus units per improved acre of park and open space area. Ongoing facility maintenance provisions are required as part of RDI approval.
8. Energy Conservation a. Benefit units that incorporate conservation features in the construction of all on-site dwelling units qualifying as Energy Star homes per Washington State Energy Code, as amended.	0.10 bonus unit per benefit unit that achieves the required savings.
9. Low Impact Development (LID) a. Integration of LID measures in project design and storm water facility construction.	5 – 10 percent increase over base density (range dependent on degree of LID integration in project design and construction).

Benefit	Density Incentive
10. Pedestrian Connections and Walkability	
a. Construction of an identified pedestrian/bicycle deficiency (per city of Marysville improvement plan). Improvements may consist of paved shoulder, sidewalk or detached path or walkway depending on adjoining conditions.	1 bonus unit per 75 lineal feet of frontage improvement (curb, gutter, sidewalks) on minor arterial streets. (Fee in lieu of improvement at $15,000 per bonus unit.) 1 bonus unit per 100 lineal feet of frontage improvement (curb, gutter, sidewalks) on neighborhood collector or collector arterial streets. 1 bonus unit per 300 lineal feet of walkway improvement (7-foot paved shoulder or walkway). (Rate may be increased if additional right-of-way is required.)

(Ord. 2852 § 10 (Exh. A), 2011).

22C.090.040 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 the perimeter of the recreation area.

(c) Ponds used as recreation areas shall have a curvilinear design with a shallow water safety bench. (Ord. 2852 § 10 (Exh. A), 2011).

22C.090.050 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 Chapters 22C.010 and 22C.020 MMC;

(2) Calculate the total number of bonus dwelling units earned by providing the public benefits listed in MMC 22C.090.030(5);

(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 22C.010.230 and 22C.020.200. (Ord. 2852 § 10 (Exh. A), 2011).

22C.090.060 Review process.

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

(a) For the purpose of this section, a primary proposal is defined as a proposed rezone, 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 MMC 22G.010.410 and to the procedures set forth for community development 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. The city of Marysville shall also approve all proposals prior to granting density incentives to the project. The proposal must meet the intent of the RDI chapter and be consistent with the city of Marysville comprehensive plan. (Ord. 2852 § 10 (Exh. A), 2011).

22C.090.070 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. 2852 § 10 (Exh. A), 2011).

22C.090.080 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 22C.120 MMC.

(3) RDI developments shall provide parking as follows:

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

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

(4) RDI developments shall provide on-site recreation space at the levels required in MMC 22C.010.320 and 22C.020.270. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.100

NONCONFORMING SITUATIONS

Sections:
22C.100.010 Purpose.
22C.100.020 Nonconformance – Applicability.
22C.100.030 Nonconforming structures.
22C.100.040 Nonconforming uses.
22C.100.050 Discontinuance or abandonment.
22C.100.060 Conditional uses.

22C.100.010 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. 2852 § 10 (Exh. A), 2011).

22C.100.020 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 International Building and Fire Codes; or

(b) The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22C.100.030 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; 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 pre-existing 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 pre-existing degree of nonconformance.

(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. 2982 § 1, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22C.100.040 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 22C.100.030(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 are 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; provided also, that a conditional use permit shall not be required for enlargement of a single-family residence in nonresidential zones subject to the limitations set forth in MMC 22C.100.030(2), or for construction of an accessory structure such as a garage or shed; provided, that the expansion or new structure is sited on the property so as not to preclude conversion of the property to a future, nonresidential use.

(4) A 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 pre-existing 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. 2982 § 2, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22C.100.050 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. 2852 § 10 (Exh. A), 2011).

22C.100.060 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 22G.010 MMC, Article V, Code Compliance and Director Review Procedures. 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.110

TEMPORARY USES

Sections:

22C.110.010 Purpose.
22C.110.020 Permitted temporary uses.
22C.110.030 Exempted temporary uses.
22C.110.040 Decision criteria.
22C.110.050 Transitory accommodations.

22C.110.010 Purpose.

The following provisions authorizing and regulating certain temporary uses are intended to permit temporary uses and structures when consistent with MMC Title 22, Unified Development Code, and when safe and compatible with the general vicinity and adjacent uses. (Ord. 2923 § 4 (Exh. B), 2013).

22C.110.020 Permitted temporary uses.

(1) Except as provided in MMC 22C.110.030, a temporary use permit shall be required for all permitted temporary uses listed in subsection (2) of this section.

(2) The following types of temporary uses, activities and associated structures may be authorized, subject to the specific limitations noted herein and as noted in MMC 22C.110.040 and as may be established by the community development director:

(a) Outdoor art and craft shows and exhibits;

(b) Use associated with the sale of fresh fruits, produce and flowers;

(c) Mobile services such as veterinary services for purposes of giving shots;

(d) Group retail sales such as swap meets, flea markets, parking lot sales, Saturday market, auctions, etc. Automobile sales are not a permitted temporary use;

(e) Use associated with festivals, grand openings or celebrations;

(f) Temporary fundraising and other civic activities in commercial or industrial zoning districts;

(g) When elderly or disabled relatives of the occupant of an existing residence require constant supervision and care, a manufactured home with adequate water and sewer services located adjacent to such residences may be permitted to house the relatives, subject to the following requirements:

(i) The need for such continuous care and assistance shall be attested to in writing by a licensed physician;

(ii) The temporary dwelling shall be occupied by not more than two persons;

(iii) Use as a commercial residence is prohibited;

(iv) 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 setbacks outlined in this title;

(v) A current vehicular license plate, if applicable, shall be maintained during the period of time the temporary unit is situated on the premises;

(vi) Adequate screening, landscaping or other measures shall be provided to protect surrounding property values and ensure compatibility with the immediate neighborhood;

(vii) An annual building permit or manufactured home permit renewal for the temporary dwelling shall be required, at which time the property owner shall certify, on a form provided by the community development 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;

(h) Watchmen's or caretaker's quarters when approved in writing by the community development director. Said caretaker's quarters must comply with the definition set forth in MMC 22A.020.040 and will require submittal of the following:

(i) A consent letter from the owner and/or proof of ownership of the subject property or structure;

(ii) A letter identifying the business or institution to be served by the caretaker's quarters, and the purpose of, and need for, the caretaker's quarters;

(iii) A site plan identifying the location of the structure which will be occupied; and

(iv) A floor plan identifying the area within the structure which will be occupied to ensure that the use will be incidental to the primary business or institutional use of the structure.

(i) Transitory accommodations which comply with the provisions outlined in MMC 22C.110.050;

(j) The community development director may authorize additional temporary uses not listed in this subsection, when it is found that the proposed uses are in compliance with the provisions of this chapter. (Ord. 2979 § 2, 2014; Ord. 2923 § 4 (Exh. B), 2013).

22C.110.030 Exempted temporary uses.

The following activities and structures are exempt from requirements to obtain temporary use approval, but are not exempt from obtaining all other applicable permits outlined in the MMC, including but not limited to building permits, right-of-way permits, special events permits, business licenses, home occupation permits, sign permits, etc.:

(1) Uses subject to the special events provisions of Chapter 5.46 MMC, Special Events, 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;

(2) Community festivals, amusement rides, carnivals, or circuses, 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;

(3) Activities, vendors and booths associated with city of Marysville sponsored or authorized special events such as Home Grown;

(4) Retail sales such as Christmas trees, seasonal retail sale of agricultural or horticultural products. Christmas tree sales are allowed from the Saturday before Thanksgiving Day through Christmas Day only;

(5) Individual booths in an approved temporary use site for group retail identified under MMC 22C.110.020(2)(d);

(6) Fireworks stands, subject to the provisions of Chapter 9.20 MMC, Fireworks;

(7) Garage sales, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year;

(8) Manufactured homes, residences or travel trailers used for occupancy by supervisory and security personnel on the site of an active construction project;

(9) Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project;

(10) Portable units and manufactured homes on school sites or other public facilities when approved by the community development director;

(11) A manufactured home or travel trailer with adequate water and sewer service used as a dwelling while a residential building on the same lot is being constructed or while a damaged residential building is being repaired. The manufactured home or travel trailer shall be removed upon completion of the permanent residential structure construction, when repair is completed, or after one year, whichever occurs first;

(12) Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain. A temporary real estate office may be located in a temporary structure erected on an existing lot within a residential subdivision, if approved by the community development director. If approved, a temporary real estate office shall comply with the following conditions:

(a) The temporary real estate office may be used only for sale activities related to the subdivision in which it is located;

(b) The temporary real estate office shall have an Americans with Disabilities Act (ADA) accessible restroom located in or adjacent to said office;

(c) ADA accessibility shall be provided to the temporary real estate office. General site, accessible routes and building elements shall comply with ICC/ANSI A117.1-2003 or current edition;

(d) The temporary real estate office shall meet all applicable building and fire codes, or shall be immediately removed; and

(e) The temporary real estate office shall be removed immediately upon the sale of the last lot within the subdivision;

(13) Home occupations that comply with Chapter 22C.190 MMC, Home Occupations;

(14) Fundraising car washes. The fundraising coordinator is required to obtain a clean water car wash kit from the Marysville public works department in order to prevent water from entering the public storm sewer system;

(15) Vehicular or motorized catering such as popsicle/ice cream scooters and self-contained lunch wagons which cater to construction sites or manufacturing facilities. Such a use must remain mobile and not be utilized as parking lot sales;

(16) Any permitted temporary use not exceeding a cumulative total of two days each calendar year. (Ord. 2979 § 3, 2014; Ord. 2923 § 4 (Exh. B), 2013).

22C.110.040 Decision criteria.

(1) The community development director, or designee, may authorize temporary uses after consultation and coordination with all other applicable city departments and other agencies and only when all the following determinations can be made:

(a) The temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site.

(b) The temporary use will be compatible with uses in the general vicinity and on adjacent properties.

(c) The temporary use will not significantly impact public health, safety or welfare, or create traffic hazards or congestion, or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.

(d) The use and associated structures will be conducted and used in a manner compatible with the surrounding area.

(e) The use shall comply with the goals, policies and standards of MMC Title 22, Unified Development Code.

(2) General Conditions.

(a) A temporary use conducted in a parking facility shall not occupy or remove from availability more than 25 percent of the spaces required for the permanent use.

(b) Each site occupied by a temporary use must provide or have available sufficient parking and vehicular maneuvering area for customers. Such parking need not comply with Chapter 22C.130 MMC, Parking and Loading, but must provide safe and efficient interior circulation and ingress and egress to and from public rights-of-way.

(c) The applicant for a proposed temporary use shall provide any parking/traffic control attendants as specified by the city of Marysville.

(d) The temporary use shall comply with all applicable standards of the Snohomish health district.

(e) No temporary use shall occupy or use public parks in any manner unless specifically approved by the parks department.

(f) The temporary use permit shall be effective for no more than 180 days from the date of the first event or occurrence.

(g) No temporary use shall occupy or operate within the city of Marysville for more than 60 days within any calendar year, unless otherwise restricted in this chapter. The 60 days need not run consecutively. The 60 days may occur at any time within the 180-day term of the temporary use permit as long as each day is designated and approved.

(h) Parking lot sales (excluding automobile sales) shall not exceed a total of 14 days each calendar year. The 14 days need not run consecutively. The 14 days may occur at any time within the 180-day term of the temporary use permit as long as each day is designated and approved.

(i) The temporary use permit shall specify a date upon which the use shall be terminated and removed.

(j) 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.

(k) All temporary uses shall obtain, prior to occupancy of the site, all applicable city of Marysville permits, licenses and other approvals (i.e., business license, building permit, administrative approvals, etc.).

(l) The applicant for a temporary use shall supply written authorization from the owner of the property on which the temporary use is located.

(m) Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of the temporary use upon completion of removal of the use.

(n) All materials, structures and products related to the temporary use must be removed from the premises between days of operation on the site; provided, that materials, structures and products related to the temporary use may be left on site overnight between consecutive days of operation.

(o) The community development director, or designee, may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include, but are not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirement for screening or enclosure, and guarantees for site restoration and cleanup following temporary uses. (Ord. 2923 § 4 (Exh. B), 2013).

22C.110.050 Transitory accommodations.

(1) "Transitory accommodations" shall mean tents, sheds, lean-tos, tarps, huts, cabins, trailers or other enclosures which are not permanently attached to the ground, may be easily erected and dismantled, and are intended for temporary occupancy, usually for recreational or humanitarian purposes. Transitory accommodations are permitted provided the community development director determines on a case-by-case basis that such use possesses no characteristics which would adversely impact the community in any way, or that any potentially adverse characteristics can be adequately minimized and/or mitigated so as not to be materially detrimental to the health, safety and welfare of the community. Transitory accommodations can vary widely in their characteristics, which include but are not limited to size of site, surrounding land uses, duration, number of occupants, noise generation, and light and glare emanation. Accord-

ingly, certain types of transitory accommodations may require the imposition of extensive conditions to mitigate potential adverse impacts to the community, while others may not; in some cases, adequate mitigation of impacts may not be feasible, and a proposed transitory accommodation consequently may not be allowed. The community development director shall therefore have the authority to approve, approve with conditions, or deny a permit for a transitory accommodation proposal, after consideration of the performance criteria set forth herein.

(2) Process.

(a) A transitory accommodation permit shall be required prior to the commencement of such a use, unless the community development director determines, after consideration of the performance criteria set forth in this section, that the proposed transitory accommodation possesses no characteristics which might adversely impact the community. The prospective transitory accommo-

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dation host (property owner and lessee, if applicable), sponsor and manager shall jointly apply for the transitory accommodation permit and shall be jointly and severally responsible for compliance with all conditions of the permit. "Applicant," as used in these regulations, shall mean the transitory accommodation host, sponsor and manager. "Proponent," as used in these regulations, shall mean the prospective host, sponsor and manager prior to submittal of an application for a transitory accommodation permit.

(b) A transitory accommodation permit shall be processed as set forth in Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures. Permit processing fees for a transitory accommodation permit shall be established in MMC 22G.030.020.

(c) The applicant shall identify potential adverse effects of the proposed transitory accommodation on neighboring properties and the community and shall develop measures to mitigate such effects. The applicant shall submit a written transitory accommodations impact mitigation plan with the permit application. The plan shall contain a narrative and drawing(s) that describe, to the satisfaction of the community development director, the measures the applicant will use to mitigate the effects of the transitory accommodation. At a minimum, the plan shall specifically describe the measures that will be implemented to satisfy the approval criteria provided in subsections (3) through (7) of this section, except for criteria specifically waived by the community development director. The plan shall include a code of conduct and the names and phone numbers of all persons comprising the applicant. The form and organization of the mitigation plan shall be as specified by the community development director, but the elements of the plan shall be integrated and bound together. The approved transitory accommodation impact mitigation plan shall be signed by the community development director and the applicant, and implementation, continuing compliance and enforcement of the plan shall be a condition of permit approval.

(d) Advance Discussions with Nearby Child Care Facilities and Schools.

(i) Prior to applying for a transitory accommodation permit, the proponent shall provide written notice to any licensed child care facility and the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed transitory accommodations site, and shall seek comments from said child care facility and school administration. The written notice shall be served in a manner prescribed by the city and shall be on a form provided by the city.

(ii) Where no comments are received, or where said child care facility(ies) or the administration and/or governing body of said school(s) is supportive of the proposal, the proponent shall submit a sworn affidavit to this effect with the application.

(iii) Where said child care facility(ies) or the administration of said school(s) registers objections or concerns regarding the proposed transitory accommodations, the proponent shall attempt to resolve such objections or concerns via a negotiated mitigation plan between the proponent and the child care facility(ies) or school(s). Such a plan shall be submitted with the application and shall be incorporated in the conditions of the permit. No agreed mitigation plan may violate any provision of this chapter. Where the negotiations do not result in a mutually agreed upon mitigation plan within 30 days of receipt by the child care facility or school administration of the initial notice from the proponent, but the parties desire to continue to pursue resolution of the issues, the parties may request mediation services from or through the city. In the event the parties cannot reach agreement after a good faith effort for not less than 30 days from receipt by the child care facility or the school administration of the initial notice from the proponent, the proponent may submit an application but shall provide a record of the negotiations between the parties, including but not limited to copies of all correspondence and meeting notes. In evaluating the application against the performance criteria set forth herein, the director shall consider the topic(s) of the unsuccessful negotiations and the extent to which the parties demonstrated good faith in their discussions. "Good faith" in this context shall mean recognition of the legitimacy of, and a willingness to reasonably accommodate, each party's needs, desires and concerns.

(e) Decisions of the community development director may be appealed. Such appeals shall be heard and decided by the hearing examiner in accordance with procedures set forth in Chapter 22G.060 MMC, Hearing Examiner.

(f) Emergencies. The community development director may waive these requirements for a prescribed period of time when a natural or manmade disaster necessitates the immediate establishment of transitory accommodations.

(g) Failure to Comply. If a transitory accommodation permit has been issued, and the community development director determines that

the applicant has violated any condition of that permit, the director shall issue a notice of violation and required compliance in accordance with the procedures set forth in Chapter 4.02 MMC, Enforcement Procedures. Failure to correct the violation after a reasonable time for compliance shall result in revocation of the permit. In such an event all activities associated with the accommodation shall cease immediately and the site shall immediately be vacated and restored to its pre-accommodation condition.

(3) Site Performance Criteria.

(a) Size. The site shall be of sufficient land area to support the activities of the transitory accommodation without overcrowding of occupants, intruding into required setbacks or critical areas, destroying vegetation, eroding soils or otherwise overtaxing the land. Where deemed necessary by the community development director, the applicant shall provide a site plan indicating the location of the proposed transitory accommodation on the host property; its area in square feet; and the proposed distribution of, and allocation of space for, anticipated activities including but not limited to sleeping, eating, socializing, and bathing and other personal functions.

(b) Setbacks from Property Line. All activities of the transitory accommodation shall be set back from adjacent properties a sufficient distance so as not to impinge upon or otherwise unduly influence activities on said adjacent properties. The transitory accommodation shall be positioned on the property in the location that results in the least adverse impact to occupants of neighboring properties. The community development director may require the applicant to change the proposed location of the transitory accommodation to mitigate adverse impacts to occupants of neighboring properties. Where deemed necessary by the community development director, the applicant shall provide a site plan indicating buildings and uses on properties surrounding the proposed transitory accommodation, and the distance the proposed accommodation would be set back from surrounding property lines. A transitory accommodation shall be set back no less than 20 feet from the exterior boundary lines of adjacent properties unless the owners of such properties consent in writing to a reduction or waiver of such setback.

(c) Screening of Activities. Where deemed necessary by the community development director, activities of the transitory accommodation shall be obscured from view from adjacent properties, by a minimum six-foot-high temporary sight-obscuring fence, an existing sight-obscuring fence, existing dense vegetation, an existing topographic difference, distance from exterior property lines, or other means, to the maximum extent feasible.

(d) Parking. Adequate parking for the transitory accommodation shall be provided so as not to reduce parking utilized by existing surrounding uses. Where deemed necessary by the community development director, the applicant shall provide a proposed parking plan which addresses the following:

(i) A description of parking capacity, both on site and on-street, that describes the amount and location of parking prior to the transitory accommodation and any displacement of parking resulting from the transitory accommodation; and

(ii) Any circumstances which may reduce the normal demand for parking, such as off-peak-season use; and/or any mechanisms or strategies to reduce parking demand, such as the provision of shuttle buses for the use of occupants of the transitory accommodations, or the provision of shared parking agreements with adjacent uses.

(e) Critical Areas. All proposed transitory accommodations shall comply with the city's critical areas regulations as set forth in Chapter 22E.010 MMC, Critical Areas Management. Where deemed necessary by the community development director, the applicant shall provide a site plan indicating the presence and extent of any critical areas.

(f) Restoration of Site. Upon cessation of the temporary accommodation, the site shall be restored, as near as possible, to its original condition. Where deemed necessary by the community development director, the applicant shall re-plant areas in which vegetation had been removed or destroyed.

(4) Duration Performance Criteria.

(a) Length of Time. The proposed transitory accommodations shall be in operation the minimal length of time necessary to achieve the recreational, humanitarian or other objective(s) of the applicant. Where deemed necessary by the community development director, the applicant shall provide a narrative explaining the objective(s) the applicant seeks to achieve, and the amount of time the applicant believes necessary to achieve that objective. However, under no circumstances shall a proposed transitory accommodation be allowed in one location for more than 90 days, either consecutively or cumulatively, during any 12-month period, except that where the ninetieth day falls on a Friday, an additional two days shall be allowed to

dismantle and remove the accommodation over the immediately following weekend.

(5) Health and Safety Performance Criteria. Transitory accommodations shall be operated in such a manner as to ensure the health and safety of occupants of the subject and surrounding properties. Accordingly, all transitory accommodations shall comply with the following:

(a) Health Regulations. All applicable city, county and state regulations pertaining to public health shall be met.

(b) Fire Safety. Inspections of the accommodation by the city or Marysville fire district for fire safety purposes may be conducted at any time and without prior notice. Adequate access, as determined by the fire marshal, shall be maintained within and around the accommodation at all times to ensure that emergency vehicles can ingress/egress the site.

(c) Building Code Inspections. Inspections of the accommodation by the city to ensure the public health and safety with regard to structures may be conducted at any time and without prior notice.

(d) Drinking Water and Solid Waste. An adequate supply of potable water shall be available on site at all times. Adequate toilet facilities shall be provided on site, as determined by the public works director. All city, county and state regulations pertaining to drinking water connections and solid waste disposal shall be met.

(e) Trash. Adequate facilities for dealing with trash shall be provided on site. A regular trash patrol or other method of regular maintenance in the immediate vicinity of the site shall be provided.

(6) Conduct and Security Performance Criteria.

(a) Noise. Any transitory accommodation shall comply with city noise regulations as set forth in Chapter 6.76 MMC, Noise Regulation. Where deemed necessary by the community development director, the applicant shall provide a plan to mitigate potential noise impacts.

(b) Light and Glare. Any light fixture which causes direct glare and/or reflections from any point along the property line or toward public rights-of-way in a manner that causes a visual distraction to vehicles, bicycles, or pedestrians, as determined by the director of public works, shall be prohibited. Where deemed necessary by the community development director, the applicant shall provide a plan to mitigate potential light and glare impacts.

(c) Security. Any transitory accommodation shall comply with city regulations regarding lawful behavior as set forth in MMC Title 6, Penal Code. Any transitory accommodation shall provide all required legal access to public areas of the site by the city of Marysville police department and any other relevant law enforcement agency at all times. Additionally, where deemed necessary by the community development director or the police chief, the applicant shall provide for the following:

(i) The applicant shall take all reasonable and legal steps to obtain verifiable identification, such as a valid driver's license, government-issued identification card, military identification card, or passport, from all prospective and current transitory residents.

(ii) The applicant will use such identification to obtain warrant and sex offender checks from the Snohomish County sheriff's office or other relevant authority. The anonymity of the requesting party shall be maintained.

(iii) If said check reveals that the subject of the check is a sex offender, required to register with the city, county or state authorities pursuant to RCW 9A.44.130, then the applicant shall immediately reject the subject of the check for residency in the transitory accommodation or eject the subject of the check if that person is currently a resident of the accommodation, and shall immediately notify the Marysville police department of such rejection or ejection.

(iv) If said check reveals that the subject of the check has an existing or outstanding warrant, then the applicant may select either of the following alternative actions:

(A) Immediately reject or eject the subject of the check and immediately notify the Marysville police department of such rejection or ejection; or

(B) Request the Marysville police department to confer with the agency or court of jurisdiction from which the warrant originated to determine whether or not said agency or court desires the warrant to be served. If the originating agency or court desires the warrant to be served, the Marysville police department shall do so immediately. If the originating agency or court declines warrant service, due to the minor nature of the offense for which the warrant was issued or for other reasons, the subject may enter or remain in the transitory accommodation; provided, that the applicant actively assists the subject in resolving the warrant.

(v) The applicant shall keep a log of all individuals who stay overnight in the transitory accommodation, including names and dates. Logs shall be kept for a minimum of six months follow-

ing the expiration of the transitory accommodation permit and provided to the city upon request.

(vi) The applicant shall provide on-site security, as approved by the community development director in consultation with the city of Marysville police department.

(d) Codes of Conduct. The applicant shall provide and enforce a written code of conduct which mitigates impacts to neighbors and the community. Said code shall be incorporated into the conditions of approval.

(7) Other Performance Criteria.

(a) Indemnification. The applicant shall defend, indemnify, and hold the city, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits of any nature, including attorney fees, due to the acts or omissions of the applicant in connection with the operation of the transitory accommodation.

(b) Liability Insurance. Where deemed necessary by the community development director, the applicant shall procure and maintain in full force, through the duration of the transitory accommodation, comprehensive general liability insurance with a minimum coverage of $1,000,000 per occurrence/aggregate for personal injury and property damage.

(c) Other Criteria. Where deemed necessary, the community development director may identify other performance criteria, require the applicant to describe the potential impacts of the proposed transitory accommodation with respect to those criteria, and determine if measures are warranted to minimize or otherwise mitigate such impacts. (Ord. 2923 § 4 (Exh. B), 2013).

Chapter 22C.120

LANDSCAPING AND SCREENING

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22C.120.010 Purpose.

The city of Marysville recognizes the aesthetic, ecological and economic value of landscaping and requires its use to:

(1) Promote the distinct character and quality of life and development expected by the community as indicated and supported in the policies of the comprehensive plan;

(2) Maintain and protect property values;

(3) Enhance the visual appearance of the city;

(4) Enhance the compatibility of new development with surrounding properties;

(5) Provide visual relief from large expanses of parking areas and reduction of perceived building scale;

(6) Provide physical separation between residential and nonresidential areas;

(7) Provide visual screens and barriers as a transition between differing land uses;

(8) Preserve and enhance Marysville's urban forest;

(9) Preserve and enhance existing vegetation and significant trees by incorporating them into the site design; and

(10) Reduce storm water runoff pollution, temperature and volume. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.020 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. 2852 § 10 (Exh. A), 2011).

22C.120.030 Plan submittal requirements.

Landscape plans are not required for houses and duplexes. For all other types of development landscape plans shall:

(1) Be submitted at the time of application for a development permit; and

(2) Include the following elements:

(a) The footprint of all structures;

(b) The final site grading;

(c) All parking areas and driveways;

(d) All sidewalks, pedestrian walkways and other pedestrian areas;

(e) The location, height and materials for all fences and walls;

(f) The common and scientific names of all plant materials used, along with their size at time of planting;

(g) The location of all existing and proposed plant materials on the site;

(h) A proposed irrigation plan; and

(i) Location of all overhead utility and communication lines, location of all driveways and street signs. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.040 Irrigation requirement.

All landscaped areas shall be provided with an irrigation system or a readily available water supply with at least one outlet located within 50 feet of all plant material. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.050 Water conservation standards.

(1) Water Conservation Standards.

(a) Applicability. In order to ensure efficient water use in landscaped areas, the following standards shall be applied to all landscaping associated with office, commercial, industrial, institutional, parks and greenways, multiple-family residential projects, and commonly owned and/or maintained areas of single-family residential projects.

(b) Exemptions. These standards do not apply to landscaping in private areas of single-family projects. Parks, playgrounds, sports fields, golf courses, schools, and cemeteries are exempt from specified turf area limitations where a functional need for turf is established. All other requirements are applicable.

(c) Plant Selection and Use Limitation.

(i) Turf, high-water-use plantings (e.g., annuals, container plants) and water features (e.g., fountains, pools) shall be considered high-water uses and shall be limited to not more than 40 percent of the project's landscaped area if nondrought resistant grass is used, and no more than 50 percent of the landscaped area if drought resistant grass is used.

(ii) Plants selected in all areas not identified for turf or high-water-use plantings shall be well suited to the climate, soils, and topographic conditions of the site, and shall be low-water-use plants once established.

(iii) Plants having similar water use shall be grouped together in distinct hydrozones and shall be irrigated with separate irrigation circuits.

(iv) No turf or high-water-use plants shall be allowed on slopes exceeding 25 percent, except where other project water saving techniques can compensate for the increased runoff, and where the need for such slope planting is demonstrated.

(v) No turf or high-water-use plants shall be allowed in areas five feet wide or less except public right-of-way planter strips.

(d) Newly landscaped areas should have soils amended with either four inches of appropriate organic material with the first two-inch layer tilled into existing soils, or as called for in a soil amendment plan for the landscape.

(e) Newly landscaped areas, except turf, should be covered and maintained with at least two inches of organic mulch to minimize evaporation.

(f) Irrigated turf on slopes with finished grades in excess of 33 percent is discouraged.

(g) Retention of existing trees and associated understory vegetation is encouraged to reduce impacts to the storm water system and to reduce water use.

(2) Water Efficient Landscape (Xeriscape) Standards.

(a) As an alternative to traditional landscaping, the city encourages the use of xeriscape practices, which minimize the need for watering or

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irrigation. Xeriscape principles can be summarized as follows:

(i) Using plants with low moisture requirements;

(ii) Selecting plants for specific site microclimates that vary according to slope, aspect, soil, and exposure to sun and moisture;

(iii) Using native, noninvasive, adapted plant species;

(iv) Minimizing the amount of irrigated turf;

(v) Planting and designing slopes to minimize storm water runoff;

(vi) Use of separate irrigation zones adjusted to plant water requirements and use of drip or trickle irrigation systems;

(vii) Using mulch in planted areas to control weeds, cool the soil and reduce evaporation; and

(viii) Emphasizing soil improvement, such as deep tilling, adding organic matter and other amendments based on soil tests.

(b) Appropriate Plant Species. Trees and plants used in xeriscape plantings pursuant to this section shall:

(i) Be appropriate for the ecological setting in which they are to be planted;

(ii) Have noninvasive growth habits;

(iii) Encourage low maintenance and sustainable landscape design;

(iv) Be commercially available;

(v) Not be plant material that was collected in the wild; and

(vi) Be consistent with the purpose and intent of this section.

(c) Native Vegetation. Within xeriscape areas, a minimum of 50 percent native plants shall be used.

(d) Prohibited Species. The city shall maintain a list of prohibited species, which are invasive or noxious. Where such species already exist, their removal shall be a condition of development approval.

(e) Additional Planting Standards.

(i) For xeriscape areas, soil samples shall be analyzed to determine what soil conditioning or soil amendments should be used at the time of planting. Soil conditioning measures shall be adequate for the plant species selected.

(ii) Trees, shrubs, perennials, perennial grasses and ground covers shall be located and spaced to accommodate their mature size on the site.

(f) Plant Replacement. The developer shall maintain xeriscape plantings for a two-year period from the date of planting. Within the two-year period, the developer shall replace or otherwise guarantee any failed plantings:

(i) Dead or dying trees or shrubs shall be replaced; and

(ii) Plantings or perennials, perennial grasses or ground covers shall be replanted to maintain a maximum 20 percent mortality rate from the date of planting.

(3) Storm Water. Applicants are encouraged to incorporate landscaping into the on-site storm water treatment system to the greatest extent practicable. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.060 Completion and security for performance and maintenance.

(1) All required landscaping shall be in place before certificates of occupancy are issued. If, due to weather conditions, it is not feasible to install required landscape improvements, a temporary certificate of occupancy may be issued after a performance bond, irrevocable letter of credit, or assignment of cash deposit has been posted in accordance with Chapter 22G.040 MMC. Upon completion of the landscape improvements, the bond or device is released and a permanent certificate of occupancy issued; except a maintenance bond, irrevocable letter of credit, or assignment of cash deposit in accordance with Chapter 22G.040 MMC shall be required for a minimum duration of two growing seasons (March through October), as prescribed in subsection (2) of this section.

(2) A certificate of occupancy may be issued only after a maintenance bond, irrevocable letter of credit, or assignment of cash deposit has been posted in accordance with Chapter 22G.040 MMC. This bond, irrevocable letter of credit, or assignment of cash deposit shall be held for a minimum duration of two growing seasons (March through October) to assure the full establishment of all plantings. After two growing seasons, if the plantings are fully established, the maintenance bond, irrevocable letter of credit, or assignment of cash deposit is released. If the plantings have not been fully established, the bond, irrevocable letter of credit, or assignment of cash deposit shall be held for one additional growing season, then released or used to re-establish the plantings, whichever is appropriate.

(3) Projects requiring minor landscaping improvements, as determined by the community development director, shall submit a maintenance bond, irrevocable letter or credit, or assignment of cash deposit in an amount equal to the current cost

of the landscaping work, for a minimum duration of one year. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.070 Berms and walls.

Berms and walls for noise screening may be required by the hearing examiner or community development director in accordance with recommendations from a qualified sound consultant. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.080 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 driplines. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.090 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. 2852 § 10 (Exh. A), 2011).

22C.120.100 Modification due to site characteristics.

Except where specifically prohibited by the hearing examiner, the community development department, concurrently 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 community development department shall establish the minimum side and rear yard building setbacks from residentially designated property. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.110 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 in MMC 22C.120.120.

(1) L1 – Opaque Screen. 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 community development department.

(2) L2 – Semi-Opaque Screen. 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 community development department.

(3) L3 – Broken Screen. 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 community development department.

(4) L4 – Parking Area Landscaping. 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 ground cover in planting islands or strips having an area of at least 75 square feet and narrow dimension of no less than five feet. Suggested planting patterns which will achieve this standard are included in administrative guidelines prepared by the community development department.

(5) L5 – Retention/Detention Pond Landscaping. 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.

The screening and landscaping requirements set forth in this section may be interpreted with some flexibility by the community development 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 possible nor prudent to establish inflexible screening requirements. Therefore, minor administrative 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. 2852 § 10 (Exh. A), 2011).

22C.120.120 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 feet	L1 (1)
Commercial	Property designated multiple-family by the Marysville comprehensive plan	10 feet	L2 (1)
Commercial, industrial, multifamily and business park parking areas and drive aisles	Public right-of-way and private access roads 30 feet wide or greater	10 feet	L3
Commercial, industrial, multifamily and business park parking areas and drive aisles	Public arterial right-of-way	15 feet	L3
Residential	SR 9	See MMC 22C.120.150	
Industrial and business parks	Property designated residential by the Marysville comprehensive plan	25 feet	L1
Industrial, commercial and business park building and parking areas	I-5 or SR 9 right-of-way	15 feet	L2
Apartment, townhouse, or group residence	Property designated single-family by the Marysville comprehensive plan	10 feet	L1 (1)
Storm water management facility		5 feet	L5 (3)
Outside storage or waste area or above ground utility boxes		5 feet	L1 (2)

Table 1 (Continued)

Proposed Use	Adjacent Use	Width of Buffer	Type of Buffer
WCF and/or base station not in ROW	Property designated residential by the Marysville comprehensive plan or on property designated residential by the comprehensive plan	10 feet	L1 (1)

(1) Plus a six-foot sight-obscuring fence or wall.
(2) Screening and impact abatement shall be provided in accordance with MMC 22C.120.160.
(3) Screening of storm water facilities shall comply with the following design standards:
(a) All sides visible from a public right-of-way shall be screened;
(b) All sides located adjacent to a residentially zoned property shall be screened, unless it can be demonstrated that adequate screening exists;
(c) Screening shall be consistent with the Marysville administrative landscaping guidelines; and
(d) Dual use retention/detention facilities designed with emphasis as a recreation area, not a storm water control structure, are exempt from the screening requirements.

(Ord. 2852 § 10 (Exh. A), 2011).

22C.120.130 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 MMC 22C.120.120, 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) Planted areas next to pedestrian walkways and sidewalks shall be maintained or plant material chosen to maintain a clear zone between three and eight feet from ground level.

(4) Landscape plant material size, variety, color and texture within parking lots should be integrated with the overall site landscape design.

(5) Ten percent of the parking area, in addition to the required buffers above, shall be landscaped with Type L4 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, between rows of stalls, or at the end of parking columns. The use of strips or islands as bioretention swales or cells is encouraged, subject to approval by the city engineer. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in the satisfaction of these requirements;

(c) All individual planting areas within parking lots shall be planted with at least one tree, be a minimum of five feet in width and 120 square feet in size, and, in addition to the required trees, shall be planted with a living ground cover;

(d) Parking lots containing less than 20 parking spaces need provide only perimeter screening to satisfy the 10 percent area requirements;

(e) All landscaped areas shall be protected from vehicle damage by a six-inch protective curbing. Wheel stops may be substituted when required to allow storm water to pass;

(f) A minimum two-foot setback shall be provided for all trees and shrubs where vehicles overhang into planted areas;

(g) 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. 2852 § 10 (Exh. A), 2011).

22C.120.140 Street tree requirements.

(1) Purpose. To provide consistent street frontage character within the street right-of-way. The street tree standards also maintain and add to Marysville's tree canopy and enhance the overall appearance of commercial and neighborhood development. Trees are an integral aspect of the Marysville landscape and add to the livability of Marysville. They provide aesthetic and economic value to property owners and the community.

(2) Street Tree Implementation.

(a) Street trees are required along all city streets and access easements.

(b) Street trees shall be planted between the curb and the walking path of the sidewalk. Either five-foot by five-foot pits with tree grates or a continuous planting strip with ground cover that is at least five feet wide may be used. Where planting

strips are not incorporated into the street design, street trees shall be located behind the sidewalk.

(c) Species of street trees shall be selected from the list of appropriate street trees outlined in the administrative landscaping guidelines, prepared by the community development director. Species of street trees not outlined in the administrative landscaping guidelines shall be approved by the community development director.

(d) Street trees shall meet the most recent ANSI standards for a one-and-one-half-inch caliper tree at the time of planting and shall be spaced in order to provide a continuous canopy coverage within 10 years of planting.

(e) Street tree plantings shall consider the location of existing utilities, lighting and existing and proposed signs.

(f) If overhead power lines are present, street trees shall be limited to a mature height of 25 feet to avoid conflict with utility lines and maintenance crews.

(g) If a street has a uniform planting of street trees or a distinctive species within the right-of-way, then new street trees should match the planting pattern and species.

(h) Landscape areas between the curb and sidewalk shall be maintained or plant material chosen to maintain a clear view zone between three and eight feet from ground level.

(3) Where the community development director determines that it is not feasible and/or desirable to plant the required street 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) Maintenance. Street trees and other landscaping shall be maintained and irrigated by the adjacent property owner, unless otherwise approved by the community development department. (Ord. 2852 § 10 (Exh. A), 2011).

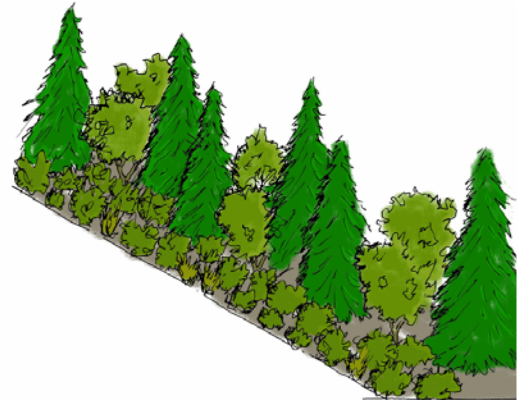
22C.120.150 SR 9 fence and landscaping design options.

All residential zoned properties adjacent to Highway 9 shall integrate one of the following options along the property line abutting Highway 9:

(1) Option 1 – 10-Foot-Wide Landscape Buffer with Fence. The following standards apply:

(a) Landscaping shall be placed between the fence and SR 9 to form a dense screen. The following standards apply:

(i) Property owners are encouraged to retain existing native and noninvasive vegetation to incorporate into the screen. Credit will be given for existing trees and shrubs depending on their size and screening (with regard to the amount of additional trees and shrubs that are needed).



Buffer options emphasize landscaping elements over fencing

(ii) The landscaping plan shall be prepared by a licensed landscape architect or Washington-certified professional horticulturalist.

(iii) Evergreen Trees. At least one row of evergreen trees shall be planted, minimum eight feet in height and 10 feet maximum separation at time of planting. Permitted evergreen tree species are those with the ability to develop a minimum branching width of eight feet within five years. Multiple tree species shall be integrated into the buffer design to promote long-term health and provide visual interest.

(iv) Deciduous Trees. Projects shall incorporate deciduous trees (vine maples are a desirable example) into the buffer to add seasonal variety and interest. Deciduous trees shall have a caliper of at least one inch at the time of planting.

(v) Shrubs shall be planted at a rate of one shrub per 20 square feet of landscaped area. At least 50 percent of the shrubs shall be evergreen. At least 25 percent of the shrubs should be deciduous to provide seasonal interest. Shrubs shall be at least 16 inches tall at planting and have a mature height between three and four feet.

(vi) Ground cover shall be planted and spaced to result in total coverage of the required landscape area within three years as follows:

(A) Four inch pots at 18 inches on center.

(B) One-gallon or greater sized containers at 24 inches on center.

(vii) New landscaping materials shall consist of drought-tolerant species that are native to the coastal region of the Pacific Northwest or noninvasive naturalized species that have adapted to the climatic conditions of the coastal region of the Pacific Northwest.

(viii) Maintenance. A two-year performance bond, irrevocable letter of credit, or assignment of cash deposit shall be posted, in accordance with Chapter 22G.040 MMC, at the time of installation, to ensure the plants live and are maintained through two growing seasons.

(b) Fence Standards.

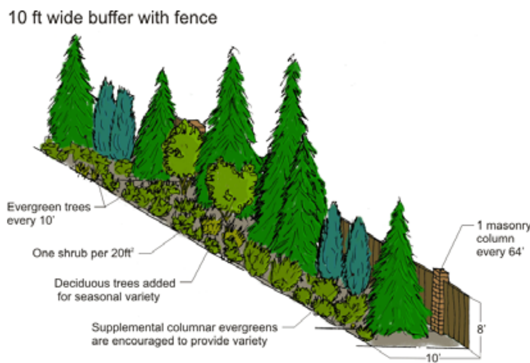
(i) The fence shall be eight feet high and constructed with durable materials.

(ii) All razor wire, barbed wire, electric wire, or chain-link fences are prohibited.

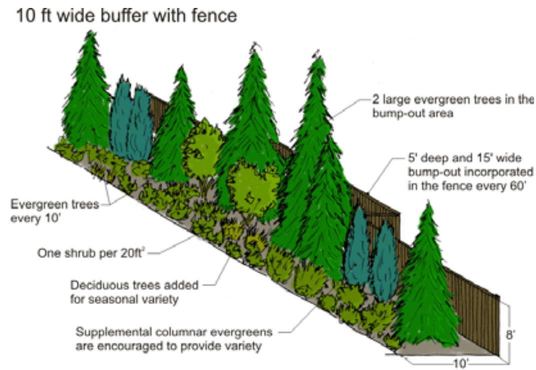
(iii) The fence shall be broken up to add variety in one of the following ways:

(A) A masonry column/post shall be incorporated along the fence every 64 feet. The column shall be one foot taller than the rest of the fence and a minimum of one foot wide.

(B) A five-foot-deep and 15-foot-wide setback shall be incorporated in the fence every 60 feet.



Fence option with masonry columns



Fence option with five-foot by 15-foot bump-outs

(2) Option 2 – 20-Foot-Wide Landscaping Buffer. The following standards apply:

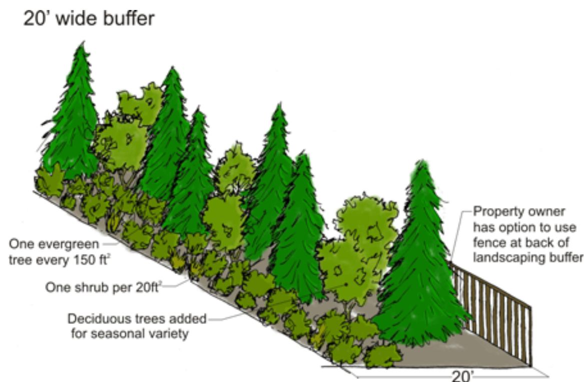
(a) A dense vegetated screen shall be provided according to the following standards:

(i) Property owners are encouraged to retain existing native and noninvasive vegetation to incorporate into the screen. Credit will be given for existing trees and shrubs depending on their size and screening (with regard to the amount of additional trees and shrubs that are needed).

(ii) The landscaping plan shall be prepared by a licensed landscape architect or Washington-certified professional horticulturalist.

(iii) A minimum of one evergreen tree at least eight feet tall at the time of planting for every 150 square feet arranged in a manner to obstruct views into the property. Permitted evergreen tree species are those with the ability to develop a minimum branching width of eight feet within five years. Multiple tree species shall be integrated into the buffer design to promote long-term health and provide visual interest.

(iv) Deciduous Trees. Projects shall incorporate deciduous trees (vine maples are a desirable example) into the buffer to add seasonal variety and interest. Deciduous trees shall have a caliper of at least one inch at the time of planting.



20-foot landscape buffer

(v) Shrubs shall be planted at a rate of one shrub per 20 square feet of landscaped area. At least 50 percent of the shrubs shall be evergreen. At least 25 percent of the shrubs should be deciduous to provide seasonal interest. Shrubs shall be at least 16 inches tall at planting and have a mature height between three and four feet.

(vi) Ground cover shall be planted and spaced to result in total coverage of the required landscape area within three years as follows:

(A) Four-inch pots at 18 inches on center.

(B) One-gallon or greater sized containers at 24 inches on center.

(vii) New landscaping materials shall include drought-tolerant species native to the coastal region of the Pacific Northwest or noninvasive drought-tolerant naturalized species that have adapted to the climatic conditions of the coastal region of the Pacific Northwest.

(viii) Maintenance. A two-year performance bond, irrevocable letter of credit, or assignment of cash deposit shall be posted, in accordance with Chapter 22G.040 MMC, at the time of installation, to ensure the plants live and are maintained through two growing seasons.

(b) Fences are optional, but may not be placed within the landscape buffer.

(3) Exceptions. Exceptions to these screening standards may be made if the city finds the recommended alternative meets long-term screening objectives. Specifically:

(a) The developer/owner may make arrangements with WSDOT to have a portion of the required buffer on WSDOT property (provided at least 10 feet of landscape buffer are retained on private property). The owner remains responsible for maintenance and irrigation of the entire buffer, even portions on WSDOT property.

(b) Under some circumstances, it may be desirable to leave portions of the highway unscreened. With city approval, the required trees may be grouped to provide views of desired amenities, such as parks or mountains.

(c) Other alternative screening methods will be considered by the city if the method provides a viable long-term option to effectively screen the highway from development and add visual interest from the highway corridor. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.160 Screening and impact abatement.

Screening and impact abatement is required where necessary to reduce the impact of service, storage, loading and trash areas.

(1) All garbage collection, dumpsters, recycling areas, loading and outdoor storage or activity areas (including but not limited to areas used to store raw materials, finished and partially finished products and wastes) shall be screened from view of persons on adjacent properties and properties that are located across a street or alley. Screening may be accomplished by any one of the following techniques or their equivalent:

(a) A five-foot-wide L1 visual screen;

(b) A six-foot-high solid masonry wall or sight-obscuring fence five feet inside the property line with an L2 buffer between the fence and the property line; and

(c) Storage areas are not allowed within 15 feet of a street lot line. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.170 Landscaping – Soil amendment.

All landscaped and lawn areas, except areas within the dripline of preserved trees, shall be amended with four inches of well-composted organic matter mixed into the top eight inches of soil or shall have an organic content of between eight and 13 percent dry weight and a pH suitable for proposed plantings. Deeper soil amendment will provide improved growing medium and increased water holding capacity. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.180 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 they were 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) Planted areas next to pedestrian walkways and sidewalks shall be maintained or plant material chosen to maintain a clear zone between three and eight feet from ground level.

(6) 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.

(7) All fencing, walls and other features used for screening purposes shall be kept free of litter, debris, and weeds. (Ord. 2852 § 10 (Exh. A), 2011).

22C.120.190 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 on-site;

(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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.130

PARKING AND LOADING

Sections:

22C.130.010 Introduction.
22C.130.020 General standards.
22C.130.030 Minimum required parking spaces.
22C.130.040 Site plan required.
22C.130.050 Development standards.
22C.130.060 Bicycle parking.
22C.130.070 Exterior design of parking structures.
22C.130.080 Loading areas.
22C.130.090 Variance requests to this chapter.

22C.130.010 Introduction.

This chapter establishes the standards for the amount, location and development of off-street motor vehicle parking, standards for bicycle parking and standards for on-site loading areas. Other titles of the city code may regulate other aspects of parking and loading. (Ord. 2852 § 10 (Exh. A), 2011).

22C.130.020 General standards.

(1) Where the Standards Apply. 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.

(2) Occupancy. All required parking areas must be completed and landscaped prior to occupancy of any structure.

(3) Calculations of Amounts of Required and Allowed Parking.

(a) When computing parking spaces based on floor area, floor area dedicated for parking is not counted.

(b) The number of parking spaces is computed based on the uses on the site. When there is more than one use on a site, the required or allowed parking for the site is the sum of the required or allowed parking for the individual uses. Parking for shopping centers shall be calculated in accordance with MMC 22C.130.030, Table 1: Minimum Required Parking Spaces. For joint parking, see MMC 22C.130.030(2)(d).

(4) Use of Required Parking Spaces. Required parking spaces must be available for the use of residents, customers or employees for the use. Required parking spaces may not be assigned in any way to a use on another site, except for joint parking situations. Required parking spaces must be made available to employees; they cannot be restricted only to customers. Also, required parking spaces may not be used for the parking of equipment or storage of goods or inoperable vehicles.

(5) Proximity of Parking to Use.

(a) Parking for one- and two-family dwellings shall be provided on the same lot as the dwelling unit it is required to serve.

(b) Parking for multiple-family dwellings shall be not over 100 feet from the building it serves.

(c) Parking for uses not specified above shall not be over 500 feet from the building it serves.

(d) 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.

(e) 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 community development department.

(6) Stacked Parking. Stacked or valet parking is allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, some form of guarantee must be filed with the city ensuring that an attendant will always be present when the lot is in operation. All parking and loading area development standards continue to apply for stacked parking.

(7) Ingress and Egress Provisions. Curb cuts and access restrictions are regulated by the Marysville engineering design and development standards (EDDS). 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 public works director 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. The city engineer may require joint use of driveways by more than one property. (Ord. 2852 § 10 (Exh. A), 2011).

22C.130.030 Minimum required parking spaces.

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

(2) Minimum Number of Parking Spaces Required.

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

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

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

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

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

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

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

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

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

(e) Bicycle parking may substitute for up to 10 percent of required parking. For every five nonrequired bicycle parking spaces that meet the bicycle parking standards in MMC 22C.130.060, the motor vehicle parking requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.

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

(i) The site to which a building is relocated must provide the required spaces; and

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

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

(i) Private vanpool operation;

(ii) Transit/vanpool fare subsidy;

(iii) Imposition of a charge for parking;

(iv) Provision of subscription bus services;

(v) Flexible work-hour schedule;

(vi) Capital improvement for transit services;

(vii) Preferential parking for carpools/vanpools;

(viii) Participation in the ride-matching program;

(ix) Reduction of parking fees for carpools and vanpools;

(x) Establishment of a transportation coordinator position to implement carpool, vanpool, and transit programs; or

(xi) Bicycle parking facilities.

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

(i) Uses Not Mentioned. In the case of a use not specifically mentioned in Table 1: Minimum Required Parking Spaces, the requirements for off-street parking shall be determined by the community development director. If there are comparable uses, the community development director's determination shall be based on the requirements for the most comparable use(s). Where, in the judgment of the community development director, none of the uses in Table 1: Minimum Required Parking Spaces are comparable, the community development director may base his or her determination as to the amount of parking required for the proposed use on detailed information provided by the applicant. The information required may include, but not be limited to, a description of the physical structure(s), identification of potential users, and analysis of likely parking demand.

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

(a) Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 a.m. on weekdays. More spaces may be reserved, but they are not required.

(b) The spaces will be those closest to the building entrance or elevator, but not closer than the spaces for disabled parking and those signed for exclusive customer use.

(c) Signs must be posted indicating these spaces are reserved for carpool use before 9:00 a.m. on weekdays.

Table 1: Minimum Required Parking Spaces

LAND USE	MINIMUM REQUIRED SPACES
RESIDENTIAL USES	
Single-family dwellings, duplexes, townhouses, and mobile homes	2 per dwelling; provided: 1. One guest parking space is required per unit, where an enclosed private garage is utilized to meet the required parking. Driveways can be counted as a guest parking space, provided said driveway complies with the bulk and dimensional requirements outlined in Table 2; and 2. Parking spaces behind other required parking spaces (a.k.a. "tandem parking") shall not be counted towards the 2 required parking spaces in a development; however, tandem parking can be counted as a guest parking space, when required
Accessory dwelling units	1 space per dwelling unit

Table 1: Minimum Required Parking Spaces (Continued)

LAND USE	MINIMUM REQUIRED SPACES
Multiple-family dwellings, one bedroom per unit	1.5 per dwelling unit. Parking spaces behind other required parking spaces (a.k.a. “tandem parking”) shall not be counted towards the 2 required parking spaces in a multifamily development; however, tandem parking can be counted as a guest parking space, when required
Multiple-family dwellings, two or more bedrooms	1.75 per dwelling unit. Parking spaces behind other required parking spaces (a.k.a. “tandem parking”) shall not be counted towards the 2 required parking spaces in a multifamily development; however, tandem parking can be counted as a guest parking space, when required
Retirement housing and apartments	1 per dwelling
Mobile home parks	2 per unit, plus guest parking at 1 per 4 lots
Rooming houses, similar uses	1 per dwelling
Bed and breakfast accommodations	1 space for each room for rent, plus 2 spaces for the principal residential use
RECREATIONAL/CULTURAL USES	
Movie theaters	1 per 4 seats
Stadiums, sports arenas and similar open assemblies	1 per 8 seats or 1 per 100 SF of assembly space without fixed seats
Dance halls and places of assembly w/o fixed seats	1 per 75 SF of gross floor area
Bowling alleys	5 per lane
Skating rinks	1 per 75 SF of gross floor area
Tennis courts, racquet clubs, handball courts and other similar commercial recreation	1 space per 40 SF of gross floor area used for assembly, plus 2 per court
Swimming pools (indoor and outdoor)	1 per 10 swimmers, based on pool capacity as defined by the Washington State Department of Health
Golf courses	4 spaces for each green, plus 50% of spaces otherwise required for any accessory uses (e.g., bars, restaurants)
Gymnasiums, health clubs	1 space per each 200 SF of gross floor area
Churches, auditoriums and similar enclosed places of assembly	1 per 4 seats or 60 lineal inches of pew or 40 SF gross floor area used for assembly
Art galleries and museums	1 per 250 SF of gross floor area
COMMERCIAL/OFFICE USES	
Banks, business and professional offices (other than medical and dental) with on-site customer service	1 per 400 SF gross floor area
Retail stores and personal service shops unless otherwise provided herein	If < 5,000 SF floor area, 1 per 600 SF gross floor area; if > 5,000 SF floor area, 8 plus 1 per each 300 SF gross floor area over 5,000 SF
Grocery stores	1 space per 200 SF of customer service area
Barber and beauty shops	1 space per 200 SF
Motor vehicle sales and service	2 per service bay plus 1 per 1,000 SF of outdoor display
Motor vehicle or machinery repair, without sales	2 plus 2 per service bay
Mobile home and recreational vehicle sales	1 per 3,000 SF of outdoor display area
Motels and hotels	1 per unit or room
Restaurants, taverns, bars with on-premises consumption	If < 4,000 SF, 1 per 200 SF gross floor area; if > 4,000 SF, 20 plus 1 per 100 SF gross floor area over 4,000 SF

Table 1: Minimum Required Parking Spaces (Continued)

LAND USE	MINIMUM REQUIRED SPACES
Drive-in restaurants and similar establishments, primarily for auto-borne customers	1 per 75 SF of gross floor area. Stacking spaces shall be provided in accordance with Chapter 22C.140 MMC, Drive-Through Facilities
Shopping centers	If < 15,000 SF, 1 per 200 SF of gross floor area; if > 15,000 SF, 1 per 250 SF of gross floor area
Day care centers	1 space per staff member and 1 space per 10 clients. A paved unobstructed pick-up area shall be set aside for dropping off and picking up children in a safe manner that will not cause the children to cross the parking area or lines of traffic
Funeral parlors, mortuaries or cemeteries	1 per 4 seats or 8 feet of bench or pew or 1 per 40 SF of assembly room used for services if no fixed seating is provided
Gasoline/service stations w/grocery	1 per employee plus 1 per 200 SF gross floor area
Adult facilities as defined by MMC 22A.020.020	1 per 75 SF of gross floor area or, in the case of an adult drive-in theater, 1 per viewing space
HEALTH SERVICES USES	
Nursing homes, convalescent homes for aged	1 per 5 beds plus 1 space per employee and medical staff
Medical and dental clinics	1 per 200 SF gross floor area
Hospitals	1 per 2 beds, excluding bassinets
EDUCATIONAL USES	
Elementary, junior high schools (public and private)	5 plus 1 per each employee and faculty member
Senior high schools (public and private)	1 per each 10 students plus 1 per each employee or faculty member
Commercial/vocational schools	1 per each employee plus 1 per each 2 students
PUBLIC/GOVERNMENT USES	
Public utility and governmental buildings	1 per 400 SF of gross floor area
Libraries	1 per 250 SF of gross floor area
MANUFACTURING/WAREHOUSE USES	
Manufacturing and industrial uses of all types, except a building used exclusively for warehouse purposes	One per 500 SF of gross floor area plus 1 per each 2 employees on maximum working shift
Warehouses, storage and wholesale businesses	1 per each 2 employees on maximum working shift
Mini self-storage	1 per each 50 storage cubicles equally distributed and proximate to storage buildings. In addition, 1 space for each 50 storage cubicles to be located at the project office

(Ord. 2898 § 13, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.130.040 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 community development department prior to construction. The site plan shall be drawn utilizing a common engineering scale (e.g., one inch equals 20 feet, one inch equals 30 feet, one inch equals 40 feet) and shall depict the following elements:

(1) The proposed/existing buildings and appurtenances;

(2) Locations, size, shape and design of the parking spaces;

(3) Existing/proposed curb cuts or access locations;

(4) Existing/proposed illumination;

(5) Landscaping and method of irrigation;

(6) Parking lot circulation (i.e., drive aisles, turning radii, etc.);

(7) Drainage facilities;

(8) Other features as deemed necessary by the director. (Ord. 2852 § 10 (Exh. A), 2011).

22C.130.050 Development standards.

(1) Purpose. The parking area layout standards are intended to promote safe circulation within the parking area and provide for convenient entry and exit of vehicles.

(2) Where These Standards Apply. The standards of this section apply to all vehicle areas whether required or excess parking.

(3) Improvements.

(a) Paving.

(i) In order to control dust and mud, all vehicle areas must be surfaced with a minimum all-weather surface. Such surface shall be specified by the city engineer. Alternatives to the specified all-weather surface may be provided, subject to approval by the city engineer. Gravel surfacing is not considered an all-weather surface.

(ii) The applicant shall be required to prove that the alternative surfacing provides results equivalent to paving. If, after construction, the city determines that the alternative is not providing the results equivalent to paving or is not complying with the standards of approval, paving shall be required.

(iii) Parks, agricultural and similar uses, and developments providing surplus parking, are exempt from the all-weather surface requirement, provided, all surfacing must provide for the following minimum standards of approval:

(A) Gravel parking facilities shall be surfaced with no less than three inches of crushed gravel.

(B) Dust is controlled.

(C) Storm water is treated to city standards.

(D) Rock and other debris is not tracked off-site.

(E) Driveway and approaches shall be paved with an all-weather surface, specified by the city engineer, from at least 20 feet back from the property line to the street.

(iv) Houses, Attached Houses and Duplexes. All driveways and parking areas must be covered in a minimum all-weather surface, specified by the city engineer. Gravel surfacing is not considered an all-weather surface.

(b) Striping. All parking spaces, except for stacked parking, must be striped in conformance with the minimum parking and aisle dimensions outlined in Table 2, except parking for single-family residences, duplexes and accessory dwelling units.

(c) Protective Curbs Around Landscaping. All perimeter and interior landscaped areas must have continuous, cast in place or extruded protective curbs along the edges. Curbs separating landscaped areas from parking areas may allow storm water runoff to pass through them. Tire stops, bollards or other protective barriers may be used at the front ends of parking spaces. Curbs may be perforated or have gaps or breaks. Trees must have adequate protection from car doors as well as car bumpers. This provision does not apply to single-family residences, duplexes and accessory dwelling units.

(d) Illumination. Parking lot illumination shall be provided for all parking lots containing 15 or more parking spaces, and shall comply with the following design standards:

(i) Parking lot lighting fixtures shall be full cut-off, dark sky rated and mounted no more than 25 feet above the ground, with lower fixtures preferable so as to maintain a human scale;

(ii) All fixtures over 15 feet in height shall be fitted with a full cut-off shield;

(iii) Pedestrian scale lighting (light fixtures no taller than 15 feet) is encouraged in areas of pedestrian activity. Lighting shall enable pedestrian to identify a face 45 feet away in order to promote safety;

(iv) Parking lot lighting shall be designed to provide security lighting to all parking spaces;

(v) Lighting shall be shielded in a manner that does not disturb residential uses or pose a hazard to passing traffic. Lighting should not be permitted to trespass onto adjacent private parcels nor shall light source (luminaire) be visible at the property line.

(4) Storm Water Management. Storm water runoff from parking lots is regulated by MMC Title 14, Water and Sewers.

(5) Parking Area Layout.

(a) Access to Parking Spaces.

(i) All parking areas, except stacked parking areas, must be designed so that a vehicle may enter or exit without having to move another vehicle.

(ii) Parking shall be designed so that automobiles do not back out into public streets.

(b) Parking Space and Aisle Dimensions.

(i) Parking spaces and aisles must meet the minimum dimensions contained in Table 2: Minimum Parking Space and Aisle Dimensions. Parking at any angle other than those shown is per-

mitted, providing the width of the stalls and aisle are adjusted by interpolation between the specified standards.

(ii) Turning Radii. The minimum allowable inside vehicle turning radius in parking and driveway areas shall be 20 feet unless fire or solid waste apparatus access is necessary, in which case the minimum inside radius shall be 30.5 feet and the outside radius shall be 46 feet or as required by the fire district or solid waste division. Turning radii are not necessarily the radii or curbs around islands and other improvements.

(iii) On dead end aisles, aisles shall extend five feet beyond the last stall to provide adequate turnaround.

(iv) The community development director may grant a deviation from the parking space and aisle dimensions outlined in Table 2: Minimum Parking Space and Aisle Dimensions, whenever (a) there exists a lot with one or more structures on it constructed before the effective date of this title, and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (c) the parking space and aisle dimensions that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking dimensional standards. To grant a deviation, the community development director must make the following findings:

(A) That the granting of the deviation will not create a safety hazard or loading of vehicles on public streets in such a manner as to interfere with the free flow of vehicular and pedestrian traffic within the public right-of-way.

(B) That the granting of the deviation will not create a safety hazard or any other condition inconsistent with the objectives of this title.

Table 2: Minimum Parking Space and Aisle Dimensions

Angle	Width	Curb Length	1-Way Aisle Width	2-Way Aisle Width	Stall Depth
0 degrees (parallel)	8 feet	21 feet	12 feet	22 feet	8 feet
30 degrees	8 feet, 6 inches	17 feet	12 feet	22 feet	15 feet
45 degrees	8 feet, 6 inches	12 feet	12 feet	22 feet	17 feet
60 degrees	8 feet, 6 inches	9 feet, 9 inches	16 feet	22 feet	18 feet
90 degrees	8 feet, 6 inches	8 feet, 6 inches	22 feet	22 feet	18 feet

Note: Dimensions of parking spaces for the disabled are regulated by the building code. See MMC 22C.130.050(5)(e).

(c) Pedestrian Access and Circulation. Developments must provide specially marked or paved walkways through parking lots, as depicted in Figure(s) 1 through 4. Parking lot walkways 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. Generally, walkways should be provided every four rows and a maximum distance of 180 feet shall be maintained between paths. Where possible, align the pathways to connect with major building entries or other sidewalks, pathways, and destinations. The pathways must be universally accessible and meet ADA standards.

Figure 1

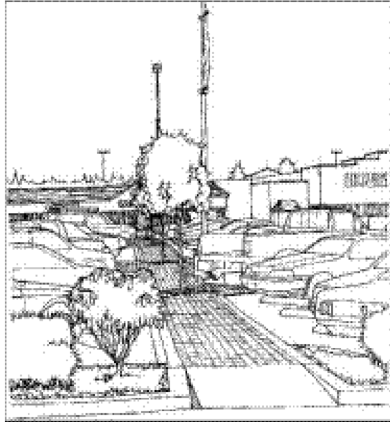


Figure 2

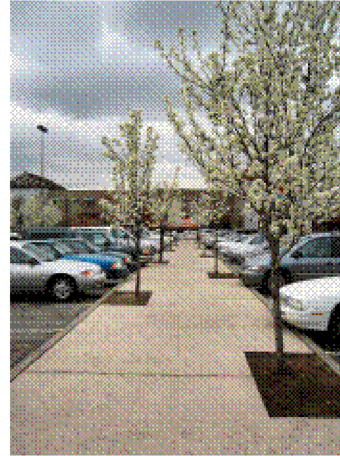
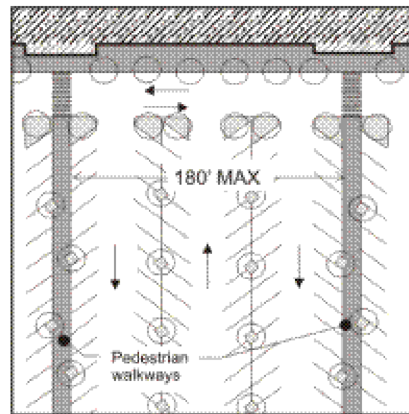


Figure 3

Figure 4



(d) Location. Parking areas should be located and designed to consider impacts to the streetscape. Except for adult facilities as defined by MMC 22A.020.020, 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.

(e) Parking for Disabled Persons. The building official regulates the following disabled person parking standards and access standards through the building code and the latest ICC/ANSI A117.1 standards for accessible and usable buildings and facilities:

(i) Dimensions of disabled person parking spaces and access aisles;

(ii) The minimum number of disabled person parking spaces and circulation routes;

(iii) Location of disabled person parking spaces and circulation routes;

(iv) Curb cuts and ramps including slope, width and location; and

(v) Signage and pavement markings.

(f) A portion of a standard parking space may be landscaped instead of paved, as follows:

(i) The landscaped area may be up to two feet of the front of the space as measured from a line parallel to the direction of the bumper of a vehicle using the space. Any vehicle overhang must be free from interference from sidewalks, landscaping, or other required elements;

(ii) Landscaping must be ground cover plants; and

(iii) The landscaped area counts toward parking lot interior landscaping requirements and toward any overall site landscaping requirements. However, the landscaped area does not count toward perimeter landscaping requirements.

(g) Ingress and Egress Provisions. The layout of parking areas are reviewed for compliance with the curb cut and access restrictions outlined in the Marysville engineering design and development standards (EDDS).

(6) Parking Area Landscaping and Screening. All landscaping must comply with the standards of Chapter 22C.120 MMC. In addition, 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.

(7) Maintenance. 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.130.060 Bicycle parking.

Bicycle parking standards are intended to provide safe, convenient, and attractive areas for the circulation and parking of bicycles that encourage the use of alternative modes of transportation.

(1) Required Bicycle Parking. Bicycle parking facilities shall be provided for any new use which requires 20 or more automobile parking spaces.

(a) The number of required bicycle parking spaces shall be five percent of the number of required off-street auto parking spaces.

(b) When any covered automobile parking is provided, all bicycle parking shall be covered.

(2) Exemptions from Bicycle Parking Standards.

(a) Construction activities which do not require a building permit.

(b) Interior and exterior remodels of existing structures.

(c) Temporary use or activities.

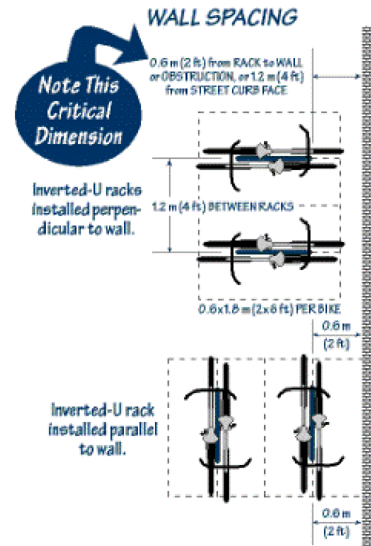
(3) Bicycle Parking Standards.

(a) Each required bicycle parking space shall be located on a minimum all-weather surface, specified by the city engineer.

(b) Bicycle parking should be at least as well-lit as vehicle parking for security.

(c) A bicycle parking space shall be at least six feet long and two feet wide with an overhead clearance of at least seven feet, and comply with the spacing provisions depicted in Figure 5. An access aisle of at least four feet wide shall be provided and maintained beside or between each row of bicycle parking.

Figure 5



(d) The location of the rack and subsequent parking shall not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions.

(e) Direct pedestrian access from the bicycle parking area to the building entrance shall be provided.

(4) Bicycle Parking Location and Design.

(a) Bicycle parking provided in outdoor locations shall not be located farther than the closest automobile parking space (except ADA parking).

(b) Short-term bicycle parking shall consist of the following design features:

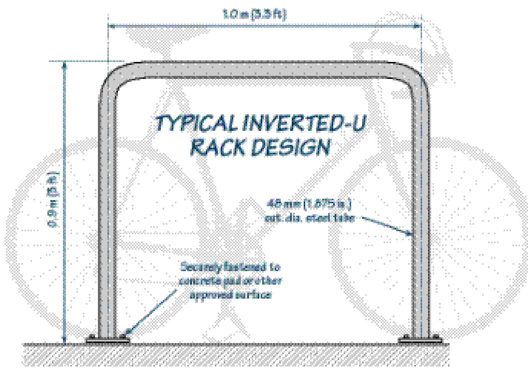
(i) Inverted "U" style racks or similar design, as illustrated in Figure 6.

(ii) Each rack shall provide each bicycle parking space with at least two points of contact that allow the frame and both wheels to be locked to the rack by the bicyclist's own locking device.

(iii) The bike rack shall have rounded surfaces and corners.

(iv) The bike rack shall be coated in a material that will not damage the bicycle's painted surfaces.

Figure 6



(5) The community development director may waive the bicycle parking requirement if it can be demonstrated that the rack would not be reasonably utilized due to the location of the facility. (Ord. 2852 § 10 (Exh. A), 2011).

22C.130.070 Exterior design of parking structures.

(1) Purpose. To reduce the visual impact of structured parking located above grade.

(2) Exterior Design of Parking Structures Implementation.

(a) The street-facing facades of parking levels within a building shall be treated in such a way as to seem more like a typical floor, rather than open slabs with visible cars and ceiling lights, as depicted in Figures 7 through 10. This may be accomplished by two or more of the following:

(i) Square opening, rather than horizontal.

(ii) Planting designed to grow on the facade.

(iii) Louvers.

(iv) Expanded metal panels.

(v) Decorative metal grills.

(vi) Spandrel (opaque) glass.

(vii) Other architectural devices may be proposed that will accomplish the intent.

(b) Freestanding parking structures shall incorporate the above features on portions of the facade above the ground level. At ground level, they shall comply with the site and building design standards outlined in Chapters 22C.010 and 22C.020 MMC, addressing ground level details, transparency and weather protection.

Figure 7

Figure 8

Figure 9

Figure 10

(Ord. 2852 § 10 (Exh. A), 2011).

22C.130.080 Loading areas.

(1) Purpose. A minimum number of off-street loading spaces are required to ensure adequate areas for loading for larger uses and developments. These standards ensure that the appearance of loading areas will be consistent with that of parking areas.

(2) Loading Standards.

(a) Number of Loading Spaces. The number of loading spaces required is determined by the following table.

Gross Floor Area (GFA)	Number of Loading Spaces
Less than 20,000 SF of nonresidential GFA	0
20,000 SF to 50,000 SF of nonresidential GFA	1
More than 50,000 SF of nonresidential GFA	2

(b) Loading spaces shall be designed so no part of a truck or van using the loading space will project into the public right-of-way.

(c) Size of Loading Spaces. Each loading space shall measure not less than 10 feet wide by 30 feet long, with 14-foot height clearance.

(d) Placement, Setbacks, and Landscaping. Loading areas must comply with the setback and perimeter landscaping standards stated in Chapter 22C.120 MMC. When parking areas are prohibited or not allowed between a building and a street, loading areas are also prohibited or not allowed.

(e) Paving. In order to control dust or mud, all loading areas must be covered in a minimum all-weather surface, specified by the city engineer. (Ord. 2852 § 10 (Exh. A), 2011).

22C.130.090 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 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.140

DRIVE-THROUGH FACILITIES

Sections:
22C.140.010 Purpose.
22C.140.020 Application.
22C.140.030 Setbacks and landscaping.
22C.140.040 Vehicle access.
22C.140.050 Stacking lane standards.
22C.140.060 Off-site impacts.

22C.140.010 Purpose.

The standards of this chapter are intended to allow for drive-through facilities by reducing the negative impacts they may create. Of special concern are noise from idling cars and voice amplification equipment, lighting and queued traffic interfering with on-site and off-site traffic and pedestrian flow. The specific purposes of this chapter are to:

(1) Reduce noise, lighting and visual impacts on abutting uses, particularly residential uses;

(2) Promote safer and more efficient on-site vehicular and pedestrian circulation; and

(3) Minimize conflicts between queued vehicles and traffic on adjacent streets. (Ord. 2852 § 10 (Exh. A), 2011).

22C.140.020 Application.

(1) Uses. The standards of this chapter apply to all uses that have drive-through facilities including vehicle repair and quick vehicle servicing.

(2) Site Development. The standards of this chapter apply only to the portions of the site development that comprise the drive-through facility. The standards apply to new developments, the addition of drive-through facilities to existing developments, and the relocation of an existing drive-through facility. Drive-through facilities are not a right; the size of the site or the size and location of existing structures may make it impossible to meet the standards of this chapter. Chapter 22C.130 MMC, Parking and Loading, contains additional requirements regarding vehicle areas.

(3) Parts of a Drive-Through Facility. A drive-through facility is composed of two parts – the stacking lanes and the service area. A drive-through facility may also have a third part – an order menu. The stacking lanes are the space occupied by vehicles queuing for the service to be provided. The service area is where the service occurs. In uses with service windows, the service area starts at the service window. In uses where the service occurs indoors, the service area is the area within the building where the service occurs. For other development, such as gas pumps, air compressors and vacuum cleaning stations, the service area is the area where the vehicles are parked during the service. (Ord. 2852 § 10 (Exh. A), 2011).

22C.140.030 Setbacks and landscaping.

All drive-through facilities must provide the setbacks and landscaping stated below:

(1) Abutting a Residential Zone. Service areas and stacking lanes must be set back 10 feet from all lot lines which abut residential zones. The setback must be landscaped to the L1 standards; see Chapter 22C.120 MMC, Landscaping and Screening.

(2) Abutting a Commercial or Industrial Zone. Service areas and stacking lanes must be set back five feet from all lot lines which abut commercial or industrial zones. The setback must be landscaped to the L2 standard; see Chapter 22C.120 MMC, Landscaping and Screening.

(3) Abutting a Street. Service areas and stacking lanes must be set back as follows:

(a) Ten-foot setback required from a public right-of-way or private access road. The setback area shall be landscaped to the L3 standard; see Chapter 22C.120 MMC, Landscaping and Screening.

(b) Fifteen-foot setback required from a public arterial right-of-way. The setback area shall be landscaped to the L3 standard; see Chapter 22C.120 MMC, Landscaping and Screening. (Ord. 2852 § 10 (Exh. A), 2011).

22C.140.040 Vehicle access.

All driveway entrances, including stacking lane entrances, must be spaced in accordance with the city of Marysville engineering design and development standards, unless otherwise authorized by the public works director or designee. (Ord. 2852 § 10 (Exh. A), 2011).

22C.140.050 Stacking lane standards.

These standards ensure that there are adequate on-site maneuvering and circulation areas, ensure that stacking vehicles do not impede traffic on abutting streets, and that stacking lanes will not have nuisance impacts on abutting residential lands.

(1) Dimensional Requirements. A stacking lane shall be an area measuring a minimum of eight feet six inches wide by 20 feet deep, with direct forward access to a service window of a drive-through facility. A stacking lane is measured from the curb

cut to the service area or the order area if an outdoor order area precedes the service area. Stacking lanes do not have to be linear.

(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) A stacking lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations.

(5) Stacking Lane Design and Layout. Stacking lanes must be designed so that they do not interfere with parking, parking access and vehicle circulation.

(6) Stacking Lanes Identified. All stacking lanes must be clearly identified, through the use of means such as striping, landscaping and signs. (Ord. 2852 § 10 (Exh. A), 2011).

22C.140.060 Off-site impacts.

Drive-through facilities must meet the off-site impact standards outlined in this section. When abutting land zoned residential, drive-through facilities with noise-generating equipment must document in advance that the facility will meet the off-site impact noise standards. Noise generating equipment includes items such as speakers, mechanical car washes, vacuum cleaners and exterior air compressors.

(1) Communication systems (e.g., intercom systems) that can be heard beyond the property line are prohibited.

(2) The exterior openings for automobile ingress and egress to work areas shall not be located on walls of buildings adjacent to residences or residentially zoned property. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.150

ELECTRIC VEHICLE INFRASTRUCTURE AND BATTERIES

Sections:

22C.150.010 Allowed uses.
22C.150.020 Vehicles and traffic.
22C.150.030 Off-street parking – Electric vehicle charging stations.
22C.150.040 Accessible electric vehicle charging stations.
22C.150.050 Signage.
22C.150.060 Streets, sidewalks and public places.
22C.150.070 SEPA.

22C.150.010 Allowed uses.

Electric vehicle charging stations (Figure 1), rapid charging stations (Figure 2) and battery exchange stations (Figure 3) are permitted in accordance with Chapter 22C.010 MMC, Residential Zones, and Chapter 22C.020 MMC, Commercial, Industrial, Recreation and Public Institutional Zones.

Figure 1: Electric Vehicle Home Charging Station

Wall-mounted Level 2 home charging station

Figure 2: Electric Vehicle Rapid Charging Stations

Rapid Charging Stations in Vacaville, CA

Figure 3: Electric Vehicle Battery Exchange Stations

Battery Exchange Station in Tokyo

(Ord. 2852 § 10 (Exh. A), 2011).

22C.150.020 Vehicles and traffic.

(1) Electric Vehicle Charging Stations – Generally.

(a) Electric vehicle charging stations are reserved for parking and charging electric vehicles only.

(b) Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

(2) Prohibitions.

(a) When a sign provides notice that a space is a designated electric vehicle charging station, no person shall park or stand any nonelectric vehicle in a designated electric vehicle charging station space. Any nonelectric vehicle is subject to fine or removal.

(b) Any electric vehicle in any designated electric vehicle charging station space and not electrically charging or parked beyond the days and hours designated on regulatory signs posted at or near the space shall be subject to a fine and/or removal. For purposes of this subsection, "charging" means an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.

(3) Noticing of Electric Vehicle Charging Stations. Upon adoption by the city of Marysville, the city engineer shall cause appropriate signs and marking to be placed in and around electric vehicle charging station spaces, indicating prominently thereon the parking regulations. The signs shall define time limits and hours of operation, as applicable, shall state that the parking space is reserved for charging electric vehicles and that an electric vehicle may only park in the space for charging purposes. Violators are subject to a fine and/or removal of their vehicle. (Ord. 2852 § 10 (Exh. A), 2011).

22C.150.030 Off-street parking – Electric vehicle charging stations.

To ensure an effective installation of electric vehicle charging stations, the regulations in this section provide a framework for when a private property owner chooses to provide electric vehicle charging stations.

(1) Electric Vehicle Charging Station Spaces.

(a) Purpose. For all parking lots or garages, except those that include restricted electric vehicle charging stations.

(b) Number. No minimum number of charging station spaces is required.

(c) Minimum Parking Requirements. An electric vehicle charging station space may be included in the calculation for minimum required parking spaces that are required pursuant to other provisions of this code.

(d) Location and Design Criteria. The provision of electric vehicle parking will vary based on the design and use of the primary parking lot. The following required and additional locational and design criteria are provided in recognition of the various parking lot layout options.

(i) Where provided, parking for electric vehicle charging purposes is required to include the following:

(A) Signage. Each charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations shall be included if time limits or tow-away provisions are to be enforced.

(B) Maintenance. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or other problems are encountered.

(C) Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, the charging equipment shall be located so as not to interfere with accessibility requirements of WAC 51-50-005.

(D) Lighting. Where charging station equipment is installed, adequate site lighting shall exist, unless charging is for daytime purposes only.

(E) Notification. Information on the charging station, identifying voltage and amperage levels and any time of use, fees, or safety information.

(e) Data Collection. To allow for maintenance and notification, the Marysville community development department will require the owners of any private new electric vehicle infrastructure station that will be publicly available (see definition "electric vehicle charging station – public" in MMC 22A.020.060) to provide information on the station's geographic location, date of installation, equipment type and model, and owner contact information. (Ord. 2852 § 10 (Exh. A), 2011).

22C.150.040 Accessible electric vehicle charging stations.

(1) Quantity and Location. Where electric vehicle charging stations are provided in parking lots or parking garages, accessible electric vehicle charging stations shall be provided as follows:

(a) Accessible electric vehicle charging stations shall be provided in the ratios shown on the following table.

Number of EV Charging Stations	Minimum Accessible EV Charging Stations
1 – 50	1
51 – 100	2
101 – 150	3
151 – 200	4
201 – 250	5
251 – 300	6

(b) Accessible electric vehicle charging stations should be located in close proximity to the building or facility entrance and shall be connected to a barrier-free accessible route of travel. It is not necessary to designate the accessible electric vehicle charging station exclusively for the use of disabled persons. Below are two options for providing for accessible electric vehicle charging stations.

Figure 4: Off-Street Accessible Electric Vehicle Charging Station – Option 1

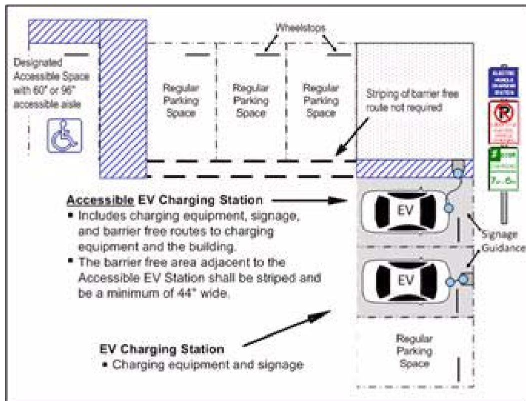
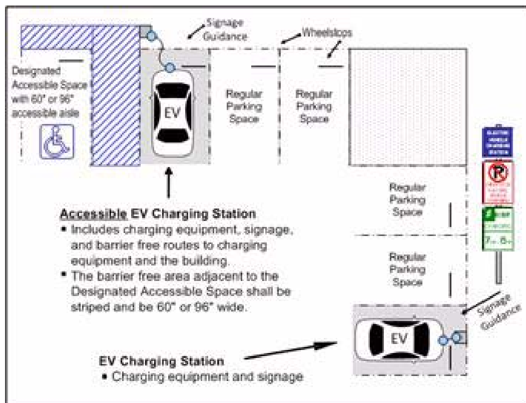


Figure 5: Off-Street Accessible Electric Vehicle Charging Station – Option 2



(2) Definitions.

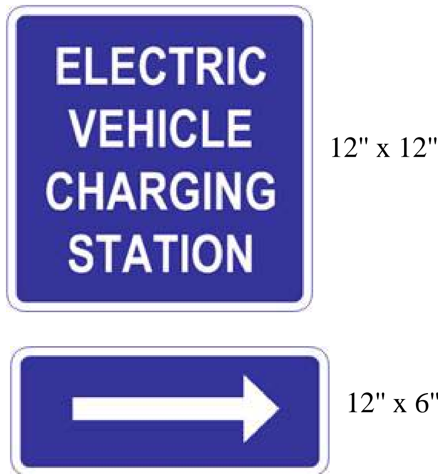
(a) "Designated accessible space" means a WAC 51-50-005 required accessible parking space designated for the exclusive use of parking vehicles with a state disabled parking permit.

(b) "Accessible electric vehicle charging station" means an electric vehicle charging station where the battery charging station equipment is located within accessible reach of a barrier-free access aisle (minimum 44-inch width) and the electric vehicle. (Ord. 2852 § 10 (Exh. A), 2011).

22C.150.050 Signage.

(1) Directional – Off-Street Parking Lot or Parking Garage. Directional signs for an on-site parking lot or parking garage should be used in the parking facility with a directional arrow at all decision points, as depicted in Figure 6.

Figure 6: Directional – Off-Street Parking Lot or Parking Garage



12" x 12"

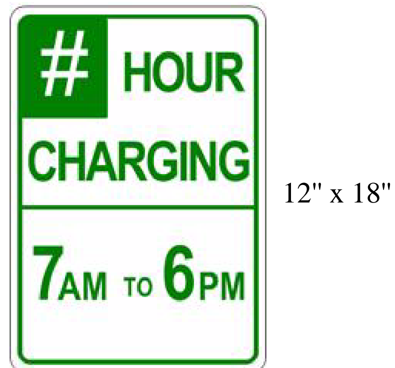
12" x 6"

(2) Off-Street EV Parking – Parking Space with Charging Station Equipment. Combination signs identifying space as an electric vehicle charging station, prohibiting nonelectric vehicles, with charging time limits, should be provided, as depicted in Figure 7.

Figure 7: Off-Street EV Parking – Parking Space with Charging Station Equipment

12" x 12"

12" x 18"



12" x 18"

(Ord. 2852 § 10 (Exh. A), 2011).

22C.150.060 Streets, sidewalks and public places.

(1) On-Street Electric Vehicle Charging Stations – Generally.

(a) Purpose. Curbside electric vehicle charging stations adjacent to on-street parking spaces are reserved for charging electric vehicles.

(b) Size. A standard size parking space may be used as an electric vehicle charging station.

(c) Location and Design Criteria. Where provided, parking for electric vehicle charging purposes is required to include the following:

(i) Signage. Each charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations shall be included if time limits or tow-away provisions are to be enforced.

(ii) Maintenance. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or other problems are encountered.

(iii) Accessibility. Charging station equipment located within a sidewalk shall not

interfere with accessibility requirements of WAC 51-50-005.

(iv) Clearance. Charging station equipment mounted on pedestals, light posts, bollards or other devices shall be a minimum of 24 inches clear from the face of curb.

(v) Lighting. Where charging station equipment is installed, adequate site lighting shall exist, unless charging is for daytime purposes only.

(vi) Charging Station Equipment. Charging station outlets and connector devices shall be no less than 36 inches or no higher than 48 inches from the top of surface where mounted, and shall contain a retraction device and/or a place to hang permanent cords and connectors sufficiently above the ground or paved surface.

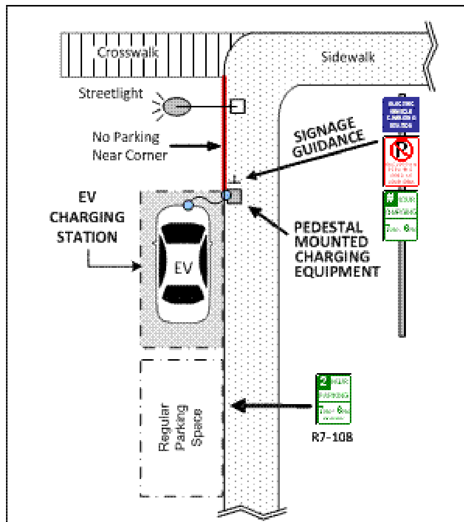
(vii) Charging Station Equipment Protection. When the electric vehicle charging station space is perpendicular or at an angle to curb face and charging equipment, adequate equipment protection, such as wheel stops or concrete-filled steel bollards, shall be used. Appropriate signage indicating if backing in is allowed or not shall be posted.

(viii) Notification. Information on the charging station identifying voltage and amperage levels and any time of use, fees, or safety information.

(ix) Location. Placement of a single electric vehicle charging station is preferred at the beginning or end stall on a block face.

(d) Data Collection. To allow for maintenance and notification, the community development department will require the owners of any private new electric vehicle infrastructure station that will be publicly available (see definition "electric vehicle charging station – public" in MMC 22A.020.060) to provide information on the station's geographic location, date of installation, equipment type and model, and owner contact information.

Figure 8: Electric Vehicle Charging Station – On Street

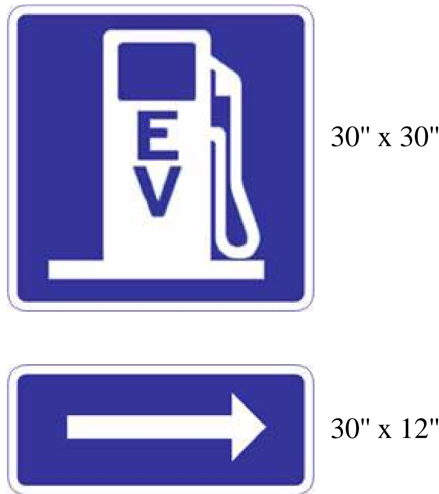


On-street charging near end of block.

(2) Signage.

(a) Directional – Highways and Freeways. Directional signs (MUTCD D0-11b) for highways and freeways (Figure 9) should be installed at a suitable distance in advance of the turn-off point or intersection highway. If used at an intersection or turn-off point, it shall be accompanied by a directional arrow. As the symbol on Figure 9 appears to be a gasoline pump, this sign may also be supplemented with the sign shown in Figure 10 (MUTCD D9-11bP) to avoid confusion with liquid fuel stations for early EV drivers.

Figure 9: Directional – Highways and Freeways



30" x 30"

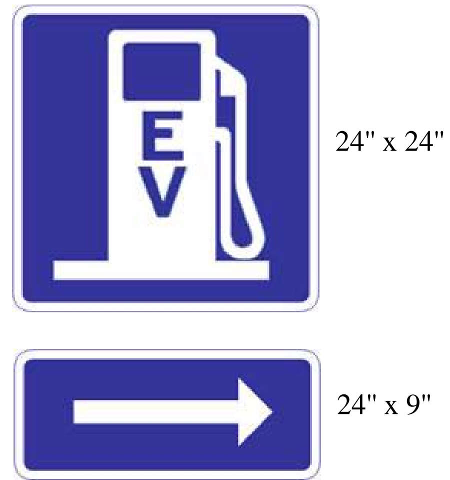
30" x 12"

Figure 10: Supplemental Directional – Highways and Freeways

30" x 24"

(b) Directional – Local Street. The directional sign for local streets should be installed at a suitable distance in advance of the intersection or charging station facility. If used at an intersection or parking lot entrance, it shall be accompanied by a direction arrow. As the symbol on Figure 11 appears to be a gasoline pump, this sign may also be supplemented with the sign shown in Figure 12 (MUTCD D9-11bP) to avoid confusion with liquid fuel stations for early EV drivers.

Figure 11: Directional – Local Street



24" x 24"

24" x 9"

Figure 12: Supplemental Directional – Local Street

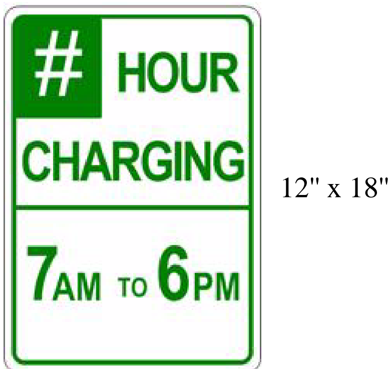
24" x 18"

(c) On-Street Parking Space with Charging Station Equipment. Combination sign identifying space as an electric vehicle charging station, prohibiting nonelectric vehicles, with charging time limits, is shown in Figure 13. The use of time limits is optional and is included to allow the charging equipment to be available for more than one use during the day. The design of the time limit charging sign is modeled after the existing R7-108 sign in the federal MUTCD. If dual use of the space is allowed, the time limits would need to be added to the red/black/white sign rather than the green sign.

Figure 13: On-Street Parking Space with Charging Station Equipment

12" x 12"

12" x 18"



12" x 18"

(Ord. 2852 § 10 (Exh. A), 2011).

22C.150.070 SEPA.

(1) Categorical Exemptions for Battery Charging and Exchange Station Installation. The construction of an individual battery charging station or an individual battery exchange station that is otherwise categorically exempt shall continue to be categorically exempt even if part of a larger proposal that includes other battery charging stations, other battery exchange stations, or other related utility networks. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.160

SIGNS

Sections:

22C.160.010 Purpose.
22C.160.020 Authority.
22C.160.030 Permits required.
22C.160.040 Application requirements and fee schedule.
22C.160.050 Inspections.
22C.160.060 Construction standards.
22C.160.070 Prohibitions.
22C.160.080 Exemptions.
22C.160.090 On-premises requirement.
22C.160.100 Maintenance.
22C.160.110 Abandoned signs.
22C.160.120 Subarea master plan and special overlay districts.
22C.160.130 Illumination.
22C.160.140 Measurement standards.
22C.160.150 Development standards – Residential zones.
22C.160.160 Development standards – Wall signs.
22C.160.170 Development standards – Freestanding signs.
22C.160.180 Development standards – Electronic message, animated and changeable copy signs.
22C.160.190 Development standards – Instructional signs.
22C.160.200 Development standards – Window signs.
22C.160.210 Development standards – Blade/bracket signs.
22C.160.220 Development standards – Gas stations, convenience stores, car washes and similar uses.
22C.160.230 Development standards – Temporary and special event signs.
22C.160.240 Nonconforming signs.
22C.160.250 Amortization for billboard signs.
22C.160.260 Bonus allowance for outstanding design.
22C.160.270 Variances.
22C.160.280 Substitution.

22C.160.010 Purpose.

The purpose of this chapter is to provide for the reasonable display of signs necessary for public service or the conduct of business. The regulations enacted herein are necessary to protect the safety and welfare of the public and to maintain an attractive appearance in the community. This chapter

authorizes and regulates the use of signs visible from a public right-of-way and/or adjacent property to:

(1) Provide a reasonable balance between the right of an individual to identify a business and the right of the public to be protected against the unrestricted proliferation of signs; and

(2) Support the economic well-being of businesses by allowing businesses to identify their premises and advertise products and services; and

(3) Provide minimum standards to safeguard life, health, property and the general welfare by regulating and controlling the design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures; and

(4) Ensure that signs are compatible with adjacent land uses; and

(5) Protect the public from hazardous conditions resulting from signs that are structurally unsafe, obscure visions of motorists, distract motorists, or interfere with traffic signs and signals; and

(6) Minimize overhead clutter for drivers and pedestrians; and

(7) Provide for types and sizes of signs appropriate to the land uses and zoning districts of the city; and

(8) Encourage well-designed signs that are compatible both with surrounding land uses and the buildings to which they are appurtenant; and

(9) Provide for the orderly and reasonable elimination of existing signs that are not in conformance with this chapter to protect the public health, safety, and welfare; and

(10) Provide a reasonable amortization period for businesses which have made a substantial investment in off-premises signs (billboards); and

(11) Implement the goals and policies of the Marysville comprehensive plan; and

(12) Protect property values by encouraging signs that are appropriate in both scale and design to surrounding buildings and landscape, and by discouraging a needless proliferation of the number of signs. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.020 Authority.

(1) Administration. The community development director will administer these sign standards as set forth in Chapter 22G.010 MMC, Land Use Application Procedures. The director may implement procedures, forms, and written policies for administering the provisions of this chapter.

(2) Enforcement. This chapter will be enforced by the code enforcement officer.

(3) Violations. Violations of this chapter are civil infractions enforced under MMC Title 4. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.030 Permits required.

It shall be unlawful to erect or display a sign in the city without a sign permit issued by the community development department, except for those exempted in MMC 22C.160.080. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.040 Application requirements and fee schedule.

(1) Applications for sign permits shall be made to the building official upon forms provided by the community development department. Such application shall require:

(a) Name, address, telephone number and e-mail address of the applicant.

(b) Name, address, telephone number and e-mail address of the sign owner.

(c) Tax parcel number or correct address where the proposed sign or signs will be located.

(d) A scaled drawing of the proposed sign or sign revision, including size, height, copy, structural footing details, method of attachment and illumination.

(e) A scaled site plan, indicating the location of the sign relative to property lines, rights-of-way, streets, sidewalks, and other buildings or structures on the premises.

(f) The number, size, type and location of all existing signs on the same building, lot or premises.

(2) Fee Schedule. Fees for sign permits are as provided by MMC 16.04.045, Table 1-A. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.050 Inspections.

(1) Inspections are required for all signs requiring a permit. The building division shall be contacted for inspections at the following points of the project:

(a) Prior to pouring footings for freestanding signs. The applicant will be required to provide enough field information for the inspector to determine the proposed sign complies with applicable setback provisions.

(b) Foundation, anchorage, attachments and other structural support of the sign, sign structure and awning.

(c) Electrical connections of the sign, sign lighting or awning lighting. No person may make connections of a sign, sign lighting or awning light-

ing to a power source until all electrical components and connections have been approved.

(d) Final sign installation to determine compliance with the approved plans.

(2) Special inspections may be required for complex signs as specified by the licensed design professional or the building official. Notice will be given to the applicant as part of the permit review process when a special inspection is required. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.060 Construction standards.

The construction, erection, safety and maintenance of all signs shall comply with MMC Title 16, and the following:

(1) Signs shall be structurally sound and located so as to pose no reasonable threat to pedestrian or vehicular traffic.

(2) All permanent freestanding signs shall have self-supporting structures erected on, or permanently attached to, concrete foundations.

(3) Signs should not be in locations that obscure architectural features such as pilasters, arches, windows, cornices, etc.

(4) Signs should not be in locations that interfere with safe vehicular and pedestrian circulation or public safety signals and signs.

(5) No signs shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a means of egress. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.070 Prohibitions.

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

(1) Billboards. Billboards shall be removed subject to the amortization schedule outlined in MMC 22C.160.250.

(2) Animated signs. No sign shall be animated, revolve or rotate either mechanically or by illumination, except for the movement of the hands of a clock, permitted electronic message signs, and barber poles.

(3) Roof signs.

(4) Hazardous signs. A sign is hazardous if it creates a safety hazard for pedestrians or motorists, as determined by the police chief or city engineer.

(5) Signs located in or on public right-of-way. No signs shall be located upon or projecting over public streets, sidewalks, or rights-of-way except as provided for projecting wall signs in MMC 22C.160.160(9), blade/bracket signs in MMC 22C.160.210 and temporary and special event signs in MMC 22C.160.230.

(6) Temporary and special event signs. Temporary and special event signs not meeting the requirements of MMC 22C.160.230 are prohibited. This prohibition includes, but is not limited to, portable readerboards, signs on vehicles or trailers, banners and sandwich or A-boards; provided, that sandwich or A-board signs may in certain circumstances be specifically allowed as set forth in this chapter.

(7) Signs on utility poles and trees. Signs on utility, street light and traffic control standards or poles and trees are prohibited, except for those of the utility or government.

(8) Signs not meeting the requirements of this chapter or that are legally nonconforming. The following signs are unlawful and prohibited:

(a) Signs which were lawful under prior sign codes, but which are not lawful under this chapter.

(b) Signs that do not comply with the conditions of their permits.

(c) Signs erected, altered or relocated without a permit and not in compliance with this chapter.

(d) Signs which were lawful under prior sign codes, but which have been altered or relocated so that the sign is not in compliance with this chapter.

(e) Signs that identify and advertise activities, products, businesses, or services which have been discontinued, terminated or closed for more than 60 days on the premises upon which the signs are located.

(9) Streamers, pennants, and banners. Displays of banners, festoons, flags, posters, pennants, ribbons, streamers, strings of lights, chasing strobe or scintillating lights, flares, balloons, bubble machines and similar devices are prohibited when the same are visible from any off-site location, including but not limited to any public right-of-way, except as provided in MMC 22C.160.230. Where such signs or devices are not visible from off site, this prohibition does not apply.

(10) Traffic-like signs. Signs which by reason of their size, location, movement, content, coloring or manner of illumination may be confused with a traffic control sign, signal, or device, or the light of an emergency vehicle, or which obstruct the visibility of any traffic or street sign or signal, are prohibited.

(11) Obscene signs. Signs which bear or contain statements, words or pictures which are obscene under the prevailing statutes or applicable state and federal court decisions are prohibited. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.080 Exemptions.

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

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

(2) Temporary and special event signs meeting the requirements of MMC 22C.160.230.

(3) On-premises and portable commercial or real estate signs meeting the requirements of MMC 22C.160.230(5) and (6).

(4) Political signs meeting the requirements of MMC 22C.160.230(7).

(5) Nonelectric signs not exceeding four square feet per face, which are limited in content to the name of occupant and address of the premises in a residential zone.

(6) Instructional signs, not exceeding six square feet per sign; provided, that foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.

(7) Menu signs. Foundation, anchorage, attachments and other structural support of the sign and electrical connection require construction permits.

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

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

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

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

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

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

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

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

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

(17) Gateway entrance signs. Gateway entrance signs that comply with the city of Marysville gateway master plan. Foundation, anchorage, attachments and other structure support of the sign and electrical connection require construction permits. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.090 On-premises requirement.

All signs shall be located on-premises; provided, that temporary off-premises signs shall be allowed subject to the provisions set forth in MMC 22C.160.230. In addition, property owners may apply for an off-premises freestanding sign with a contiguous property abutting a public street, subject to the following criteria:

(1) The allowable off-premises freestanding sign area shall be determined by measuring the street frontage of the property abutting the public street, as provided in MMC 22C.160.140(5).

(2) Off-premises freestanding signage shall comply with all applicable development standards set forth in this chapter.

(3) Applicants may apply for a bonus allowance, subject to the criteria set forth in MMC 22C.160.260. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.100 Maintenance.

Signs shall be maintained in the same condition as when the sign was installed. Normal wear and tear of aged signs shall be repaired when they detract from the visible quality of the sign, as deter-

mined by the community development director. When signs are repaired, they must do so in a manner (paint colors shall match, etc.) that is consistent with the approved sign permit. When signs are removed, the wall behind the sign shall be repaired and painted to match the rest of the building wall. The premises surrounding a freestanding sign shall be free of litter, and any landscaped area shall be maintained.

Those signs found to be deteriorated or unsafe shall be repaired or removed by the owner within 10 days after receiving notice from the community development director or designee. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.110 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 community development director, or designee, shall give the owner 10 days' written notice to remove it. Upon failure to comply with this notice, the city of Marysville may remove the sign at the cost of 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 22C.160.100. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.120 Subarea master plan and special overlay districts.

In general, all signs are subject to sign regulations outlined in this chapter. When the regulations of a subarea master plan or special overlay district conflict with this chapter, unless specifically indicated otherwise, the regulations of the subarea master plan or special overlay district supersede the regulations of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.130 Illumination.

The following standards apply to all illuminated signs:

(1) Sign illumination shall not interfere with the use and enjoyment of adjacent properties, create a public nuisance, or create public safety hazards. Exterior light sources shall be shielded from view and directed to illuminate only the sign face.

(2) No sign shall have blinking, flashing, moving or fluttering lights or other illuminating devices that have a changing light intensity, brightness or color.

(3) Illuminated signs shall not create a hazardous glare for pedestrians or vehicles either in a public street or on any private premises and shall not project towards the sky.

(4) The light from an illuminated sign shall not be of an intensity or brightness or directed in a manner that will create a negative impact on residential properties in direct line of sight to the sign.

(5) Colored light shall not be used at a location or in a manner so as to be confused or construed as a traffic control device.

(6) Reflective-type bulbs and incandescent lamps that exceed 15 watts shall not be used on the exterior surface of signs so that the face of the bulb or lamp is exposed to a public right-of-way or adjacent property.

(7) Light sources shall utilize energy efficient fixtures to the greatest extent possible.

(8) Each illuminated sign shall be subject to a 30-day review period, during which time the community development director or designee may determine that a reduction in illumination is necessary due to negative impacts on surrounding property or the community in general. In addition, and at any time, the community development director or designee may order the dimming of any illumination found to be excessively bright. The community development director's determination will be made without regard to the message content of the sign. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.140 Measurement standards.

(1) Determining Sign Area and Dimensions.

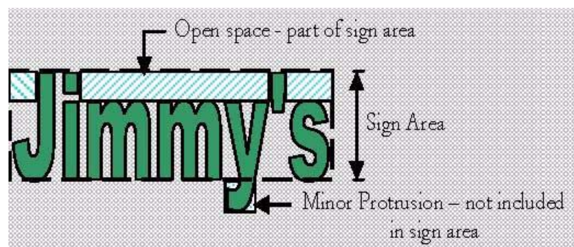
(a) For a wall sign which is framed, outlined, painted or otherwise prepared and intended solely to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.

(b) For a wall sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not a part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form,

or combination of forms, which comprises all of the display areas, including the space between different elements. Minor appendages to a particular regular shape, as determined by the community development director, shall not be included in the total area of a sign.

Figure 1: Wall Sign Area – Examples of Area Calculations

Measuring the examples using multiple geometric shapes



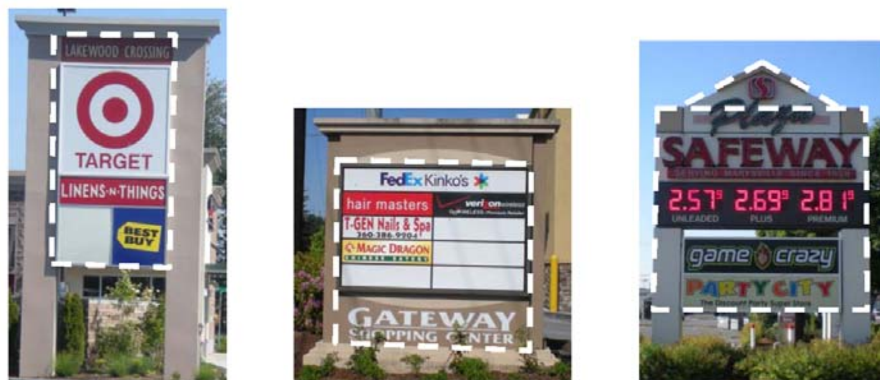
This illustrates the areas to be included within the calculation of a sign area.

(c) For a freestanding sign, the sign area shall include the frame, if any, but shall not include:

(i) A pole or other structural support unless such pole or structural support is internally illuminated or otherwise designed so as to constitute a display device, or a part of a display device.

(ii) Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, such as landscaping and building or structural forms complementing the site in general.

Figure 2: Freestanding Sign Area – Examples of Area Calculations



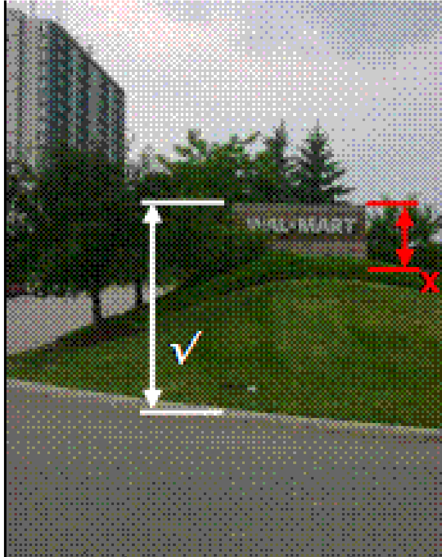
The dashed line indicates the sign area

(d) When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces.

(2) Determining Sign Height.

(a) The height of a freestanding sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the highest point of the sign. A freestanding sign on a manmade base, including a graded earth mound, shall be measured from the grade of the nearest pavement or top of any pavement curb.

(b) Clearance for freestanding and projecting signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other embellishments.



The height of a sign is measured from the grade of the street level where the sign is viewed; not from the top of the mound

(3) Determining Building Frontages and Frontage Lengths.

(a) Building Unit. The building unit is equivalent to the tenant space. The primary frontage of the tenant space on the first floor shall be the basis for determining the permissible sign area for wall signs.

(b) Primary and Secondary Frontage.

(i) Primary Frontage. Primary frontage shall be considered the portion of any frontage containing the primary public entrance(s) to the building or building units.

(ii) Secondary Frontage. Secondary frontage shall include those frontages containing secondary public entrances to the building or building units and all building walls facing a public street or primary parking area that are not designated as the primary building frontage by subsection (3)(b)(i) of this section.

(4) Building Frontage.

(a) The primary or secondary frontage shall be all walls parallel, or nearly parallel, to such frontage, excluding any such wall determined by the community development director to be clearly unrelated to the frontage criteria.

(b) The frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

(5) Determining Street Frontage.

(a) Street frontage shall be determined by measuring the lineal feet of property abutting the public street from which a property obtains primary access.

(b) For developments located along more than one public street, the street frontage shall be determined by measuring the lineal feet of property abutting all public streets.

(c) Alley frontage shall not be included in determining street frontage.

(d) Properties abutting Interstate 5, and not abutting a public street, shall have the street frontage determined by measuring the lineal feet of property abutting Interstate 5. (Ord. 2898 § 3, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.150 Development standards – Residential zones.

In addition to all other provisions of this chapter, the following development standards apply in residential zones:

(1) The total combined area of all nonexempt signs on any lot in a residential zone shall not exceed nine square feet, except as provided in subsections (7) through (12) of this section.

(2) All dwelling units in residential districts shall display house numbers readable from the street.

(3) Illumination from or upon signs 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.

(4) Freestanding pole, or pylon, signs are prohibited.

(5) Roof signs are prohibited.

(6) No sign shall be located closer than 10 feet to an internal property line unless attached to a fence. Signs attached to fences shall not extend higher than the fence and shall not create sight distance obstruction or any other safety hazard.

(7) Each entrance to a subdivision or multi-family development may have a monument sign up to 32 square feet in area, per face, or two single-faced signs of not more than 16 square feet each. These signs shall be located outside the public right-of-way so as not to create a visual obstruction for motorists or pedestrians. The height of such signs shall not exceed five feet.

(8) Existing recreation/cultural land uses (i.e., park, community center, library, church, etc.) and education services (i.e., public and private schools), not reviewed through the conditional use provisions outlined in subsection (10) of this section, may have one monument sign per street frontage up to 32 square feet in area, per face. The height of such signs shall not exceed five feet and shall comply with the development standards outlined in MMC 22C.160.170. In addition, a maximum of 32 square feet of permanent wall signage shall be allowed on the primary and secondary building frontage(s). Wall signs shall comply with the development standards outlined in MMC 22C.160.160.

(9) Home occupation, day care and adult family home signs shall not exceed three square feet and shall be wall signs, monument signs or mounted to a fence. Signs mounted to a fence shall comply with the provisions outlined in subsection (6) of this section.

(10) Signs for conditional uses permitted in residential zones shall be approved as part of the applicable conditional use permit and shall not be otherwise restricted by the provisions of this section.

(11) 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.

(12) Real estate for sale or for rent signs are permitted pursuant to MMC 22C.160.230(5) and (6). (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.160 Development standards – Wall signs.

(1) The basic allowance for wall signs shall be limited to one and one-half square feet of sign area for each lineal foot of primary building frontage for illuminated signs, or two square feet of sign area for each lineal foot of primary building frontage for nonilluminated signs.

(2) Each tenant is allowed a minimum sign area of 32 square feet.

(3) Each tenant may have multiple wall signs placed on the primary or secondary building frontage(s), so long as the total wall signage does not exceed the allowances outlined in subsection (1) of this section.

(4) The community development director may allow wall signage to be placed on wall(s) which do not qualify as primary or secondary frontages, subject to the following criteria:

(a) It must be demonstrated that the wall signage would be visible from a public right-of-way;

(b) The wall signage must be comprised of individual letters;

(c) The letter and logo height shall not exceed 24 inches;

(d) Signs shall be nonilluminated;

(e) The wall signage shall comply with the design standards outlined in subsections (5) through (8) of this section;

(f) In multi-use complexes, said signs shall be mounted so that each tenant's wall sign will be located at the same level (height above grade) as other tenants' signs;

(g) The total wall signage for all frontage(s) shall not exceed the allowances outlined in subsection (1) of this section.

(5) The wall signage shall not exceed two-thirds of the overall frontage for the building or tenant(s) frontage, as applicable.

(6) The wall signage shall not encroach within three feet from the edge of the building or tenant(s) frontage, as applicable.

(7) Wall signs shall not extend above the building parapet, soffit, eave line, or roof of the building.

(8) The color, shape, material, lettering and other architectural details shall be harmonious with the character of the primary structure. No angle irons, guy wires, or braces shall be visible except those that are an integral part of the overall design.

(9) The following additional wall signs may be permitted:

(a) Projecting signs are permitted, in addition to the allowances for wall signs, when designed and placed for the purpose of identifying the business(es) to pedestrians walking along the same side of the street as the business they seek or under a continuous rain canopy projecting from the building, subject to the following criteria:

(i) Clearance: Shall clear sidewalk by eight feet.

(ii) Projections: Shall not project more than five feet from the building facade, unless the sign is a part of a permanent marquee or awning over the sidewalk. Vertically oriented signs shall not project more than three feet from the building facade. In no case shall a projecting sign be placed within two feet of the curb line.

(iii) Size: Shall not exceed an area of two square feet per each 10 lineal feet of applicable primary building frontage.

(iv) Height: Shall not extend above the building parapet, soffit, eave line, or the roof of the building, except for theaters.

(v) Spacing: 20 feet minimum separation.

(vi) Design: The color, shape, material, lettering and other architectural details shall be harmonious with the character of the primary structure. No angle irons, guy wires, or braces shall be visible except those that are an integral part of the overall design.

(b) Building Directory. In addition to the wall signs otherwise permitted by these regulations, an additional sign may be permitted up to a maximum of 10 square feet for the purpose of identifying upper floor tenants or first floor tenants that do not have outside building frontage. (Ord. 2898 § 4, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.170 Development standards – Freestanding signs.

(1) The basic allowance for freestanding signs shall be limited to one square foot of sign area for each lineal foot of street frontage not to exceed 200 square feet of sign area per street frontage and 75 square feet per sign face.

(2) The maximum height of freestanding signs is outlined in Table 1; provided, that monument signs shall not exceed 12 feet in height. Additionally, when the regulations of a subarea, master plan or special overlay district conflict, unless specifically indicated otherwise, the regulations of the subarea, master plan or special overlay district shall supersede the height requirements outlined in Table 1.

Table 1: Freestanding Signs – Maximum Height

Zoning District									
NB	**CB**	**GC**	**DC**	**MU**	**BP**	**LI**	**GI**	**REC**	**P/I**
4 feet	25 feet	25 feet	15 feet	12 feet	25 feet	25 feet	25 feet	4 feet	15 feet

(3) No portion of a freestanding sign shall be in, or project over, a public right-of-way, and the minimum setback shall be five feet, subject to sight distance review at intersections and driveways.

(4) Single-occupancy complexes are allowed one freestanding sign per street frontage.

(5) Multi-occupancy complexes are allowed one freestanding sign per access driveway for the complex. However, multi-occupancy complexes with only one access driveway shall be allowed one additional freestanding sign, as long as the freestanding sign advertises a different business or businesses located on-site and can be spaced at least 150 feet apart.

(6) All pole, or pylon, sign supports shall be enclosed or concealed in accordance with the design criteria outlined in subsection (10) of this section.

(7) Pole, or pylon, signs are prohibited in the NB, MU and REC zones.

(8) Pole, or pylon, signs are prohibited in the commercial and industrial zones located along the 88th Street NE, 116th Street NE and 156th/152nd Street NE corridors.

(9) Pole, or pylon, signs are prohibited on CB zoned properties located adjacent to 64th Street NE (SR 528) and 84th Street NE from approximately 83rd Avenue NE to SR 9.

(10) The base of a freestanding sign and all pole or pylon sign supports shall be constructed of landscape materials, such as brick, stucco, stonework, textured wood, tile, textured concrete, or other quality materials as approved by the director, and shall be harmonious with the character of the primary structure. This limitation does not apply to structural elements that are an integral part of the overall design such as decorative metal or wood.

(11) The color, shape, material, lettering and other architectural details of freestanding signs shall be harmonious with the character of the primary structure.

(12) No angle irons, guy wires or braces shall be visible except those that are an integral part of the overall design.

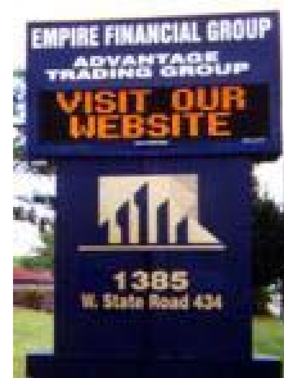
(13) One square foot of landscaping is required per one square foot of sign face. Landscaping shall include a decorative combination of ground cover and shrubs to provide seasonal interest in the area surrounding the sign. Landscaping shall be well maintained at all times of the year. The community development director may reduce the landscaping requirement where the signage incorporates stone, brick, or other decorative materials. (Ord. 2983 § 2, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.180 Development standards – Electronic message, animated and changeable copy signs.

(1) Changeable copy by nonelectronic means may be utilized on any permitted nontemporary sign.

(2) Animated signs are prohibited.

(3) One electronic message or changeable copy sign is permitted per street frontage for single-occupancy complexes. Multi-occupancy complexes with only one access driveway shall be allowed one additional electronic message or changeable copy sign, as long as the signs are spaced at least 150 feet apart.



(4) Electronic message signs are permitted; provided, that the copy does not change more than once every 20 seconds.

(5) Electronic message and changeable copy signs shall not exceed 30 percent of the allowable sign area.

(6) All electronic message and changeable copy signs shall be constructed as an integral part of a permanent sign constructed on site. "Integral" shall be considered to mean that the electronic message or changeable copy is incorporated into the framework and architectural design of the permanent sign.

(7) All electronic message signs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night. (Ord. 2983 § 3, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.190 Development standards – Instructional signs.

(1) Instructional or directional signs shall be permitted in addition to all other signs, when they are of such size and location as to satisfy the intended instructional purpose and, based on their size, location, and intended purpose, will not constitute additional advertising.

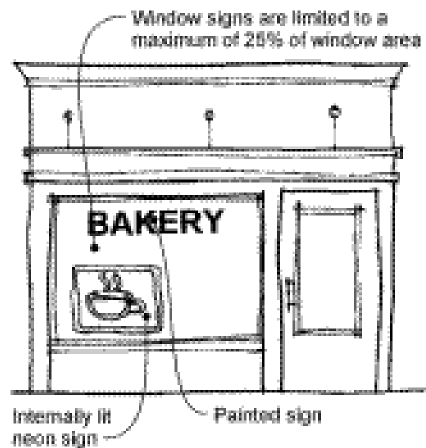
(2) Instructional signs shall not exceed six square feet per sign and may include the name of the business and logos.

(Ord. 2852 § 10 (Exh. A), 2011).

22C.160.200 Development standards – Window signs.

(1) Permanent window signs shall not exceed 25 percent of the area of a window, and the total area of all window signs, including both permanent and temporary, shall not exceed 50 percent of the window area.

(2) Window signs constructed of neon, stained glass, gold leaf, cut vinyl, and etched glass are allowed. Painted signs shall display the highest level of quality and permanence, as determined by the community development director.



(Ord. 2852 § 10 (Exh. A), 2011).

22C.160.210 Development standards – Blade/bracket signs.

Blade/bracket signs are allowed for commercial uses, subject to the following criteria:

(1) Projection. Blade signs may project up to three feet. Bracket signs shall have one foot minimum between the sign and the outer edge of the marquee, awning, or canopy and between the sign and the building facade.

(2) Clearance. Blade/bracket signs shall maintain a minimum clearance of eight feet between the walkway and the bottom of the sign.

(3) Dimensions. Blade signs shall not exceed six square feet in area. Bracket signs shall not exceed two feet in height.

(4) Mounting. Blade signs must avoid covering or modifying windows or other architectural features.

(5) Spacing. There shall be 20 feet minimum separation between blade/bracket signs.

(6) Design. The color, shape, material, lettering and other architectural details shall be harmonious with the character of the primary structure. No angle irons, guy wires or braces shall be visible, except those that are an integral part of the overall design. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.220 Development standards – Gas stations, convenience stores, car washes and similar uses.

(1) Signage shall be an integral design element of a project and compatible with the exterior architecture with regard to location, scale, color and lettering.

(2) Sign colors and materials shall match those of the building or the "corporate colors." Opaque or muted sign backgrounds with cabinet-type signs are encouraged.

(3) No commercial signage shall occupy the pump island area. All instructional signs shall be architecturally integrated.

(4) Gasoline price signs shall be architecturally integrated with other signs or structures. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.230 Development standards – Temporary and special event signs.

(1) Construction Signs. Construction signs, which identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building and announce the character of the building or the purpose for which the building is intended, are permitted subject to the following criteria:

(a) Such signs may be displayed only after a building permit is obtained and during the period of construction on the construction site.

(b) Only one sign is permitted per street frontage.

(c) No construction sign shall exceed 32 square feet per face.

(d) No construction sign shall exceed 12 feet in height.

(e) Construction signs shall be set back a minimum of 10 feet from an interior property line.

(f) 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, 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, Closing-Out and Special Sales. 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 first occurs.

(5) On-Premises Commercial or Real Estate Signs. All exterior real estate signs must be of a durable material. Only the following real estate signs are permitted:

(a) 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 first occurs. A sold sign may remain up for 10 days after the occupancy of the residential property.

(b) Commercial or industrial for sale or for 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 12 feet in height and shall be located a minimum of 10 feet from any abutting interior property line and wholly on the property for sale or rent.

(c) 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 a minimum of 10 feet from any abutting interior property line and shall be wholly on the property being subdivided and sold.

(6) Portable Commercial or Real Estate Signs. Temporary signs advertising business locations or the sale or lease of commercial or residential premises are permitted only as follows:

(a) Number. The number of temporary portable commercial, real estate, and construction signs allowed shall be as follows; provided, that nothing herein shall be construed as authorizing the display of signs otherwise prohibited under applicable provisions of this code:

(i) For any business or real estate unit located in the NB, CB, GC, DC, MU, BP, LI, GI, REC, P/I, WR-MU or WR-CB zoning districts, no more than one temporary portable commercial or real estate sign shall be allowed for each business location or real estate unit offered for sale or lease; provided, that a maximum of one temporary portable sign shall be allowed for any multi-unit complex notwithstanding the number of rental or

dwelling units therein currently available for sale or lease, subject to the following location criteria:

(A) Location. Temporary portable commercial or real estate signs shall be located within 12 feet of the applicable building entrance and maintain at least eight feet of horizontal clearance on the sidewalk for pedestrian movement.

(ii) For any business or real estate unit located in the R-4.5, R-6.5, R-8, R-12, R-18, R-28, WR-R-4-8 or WR-R-6-18 zoning districts, no limit established on the number of allowed signs, but signs may only be placed at turning/decision points within the public right-of-way, and only one each at each such location.

(b) Size. Commercial and real estate temporary portable signs shall not exceed 10 square feet per sign face, and no such sign shall contain more than two sign faces. Commercial and real estate temporary portable signs shall not exceed six feet in height, measured from the pre-existing ground level to the top of the sign.

(c) Location. No temporary portable commercial or real estate sign shall be located within vehicle lanes, bikeways, trails, sidewalks or median strips. No temporary portable commercial or real estate sign shall block driveways or be affixed to utility poles, fences, trees or traffic signs. No temporary portable commercial or real estate sign shall be strung between trees.

(d) Festoons Prohibited. The use of balloons, festoons, flags, pennants, lights or any other attached display on a commercial or real estate temporary portable sign is prohibited.

(e) Animation Prohibited. No commercial or real estate temporary portable sign shall be displayed while being rotated, waved, or otherwise in motion.

(f) Duration. Commercial temporary portable signs may be displayed only during daylight hours and when the commercial establishment to which they relate is open for business. Real estate temporary portable signs may be displayed only during daylight hours and when the real estate to which they relate is the subject of an open house or when a complex manager is available to show the unit.

(7) Political Signs. A sign which exclusively and solely advertises a candidate or candidate's public elective office, a political parity, or promotes a position on a public, social, or ballot issue may be displayed in accordance with the following restrictions:

(a) On-Premises Signs. On-premises political signs located at the headquarters of a political party, candidate for public elective office, or a public issue decided by ballot are permitted. All on-premises political signs shall comply with the dimensional and location requirements of the zoning district in which it is located.

(b) Off-Premises Signs. Permits for political signs are not required.

(i) Location. Political signs may not be placed on private property without the permission of the property owner. In parking strips and public rights-of-way where the placement of a political sign may be fairly attributed to a neighboring property owner, permission of that owner must first be obtained prior to placement. Political signs may not be located so as to impede driver vision or represent an obstruction or hazard to vehicular or pedestrian traffic.

(ii) 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 police chief and/or city engineer.

(iii) Time Limitations. Political signs advertising a candidate for election or promoting a position on a ballot issue shall be removed within seven days following an election.

(iv) Responsibility for Compliance. The person(s) placing the political sign and the political candidate and/or campaign director shall be jointly responsible for compliance with this section.

(8) Land Use Action Notice. Where required pursuant to Chapter 22G.010 MMC, Article II, Public Notice Requirements, public notice signs which describe proposed land use actions and public hearing dates are permitted.

(9) Signs on Kiosks. Temporary signs on kiosks are permitted but the signs shall not exceed four square feet in area.

(10) Temporary Uses and Secondary Uses of Schools, Churches, or Community Buildings. Temporary signs relating directly to allowed temporary uses under the city's development regulations and secondary uses of schools, churches, or community buildings may be permitted for a period not to exceed the operation of the use, subject to the following requirements:

(a) Signs must be portable in nature.

(b) No more than one on-premises sign and one off-premises sign shall be permitted per temporary use.

(c) No sign shall exceed 10 square feet per sign face.

(d) Maximum sign height shall be six feet measured from the pre-existing ground level to the top of the sign.

(e) Signs shall not be portable readerboard types, electrical or neon. Only indirect lighting is allowed.

(f) A-board or sandwich signs may be used in compliance with this subsection, provided they are used only during the days the temporary or secondary use occurs and are removed after the use ceases for each day.

(g) Signs shall be secured with an approved tie-down.

(h) Signs shall be approved by the community development director before they are used. If a temporary use permit is required, this review shall take place as part of the temporary use application decision.

(11) Alcohol Advertising. Alcohol advertising shall comply with the provisions outlined in Chapter 314-52 WAC, Advertising, as amended.

(12) Any temporary sign not otherwise provided for under subsections (1) through (11) of this section shall comply with the development standards outlined in this chapter.

(13) Removal. The community development director or designee may immediately remove and dispose of unlawful temporary and special event signs at the expense of the person identified on such signs and/or the owner of the property on which said signs are located. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.240 Nonconforming signs.

(1) All existing signs in the city that were legally permitted and are not in compliance with the requirements of this chapter upon the effective date of the ordinance codified in this title are considered nonconforming signs. Nonconforming signs shall be made to conform with the requirements of this chapter under the following circumstances:

(a) When any new sign for which a sign permit is required by this chapter is proposed to be installed on a business site where a nonconforming sign or signs are located, one nonconforming sign of similar type as the proposed sign shall be removed or brought into conformance with this chapter for each new sign installed on a business site. For example, one existing nonconforming freestanding sign would need to be removed or brought into conformance for each new freestanding sign installed on a business site. A business site shall be considered both single-tenant and multi-tenant complexes. In no case shall an applicant be permitted signage that exceeds the maximum signage allowed in this chapter.

(b) A sign is relocated, altered, replaced, or changed in any way, including the sign structure or conversion of fixed copy to an electronic message center. This provision does not include a change in the face of the sign or advertising copy.

(c) A sign requires repairs beyond normal maintenance.

(d) Whenever the occupancy classification of a building is changed that results in an intensification of land use, as determined by the community development director.

(2) Normal maintenance such as cleaning, painting, light bulb replacement, or repair of broken placards, without any change in copy, is allowed so long as the repairs do not modify the sign structure or copy, or in any way structurally alter the sign. "Normal maintenance" does not include any of the items contained in subsection (1) of this section.

(3) All temporary and special events signs that do not conform to the requirements of MMC 22C.160.230 shall be removed within six months of the effective date of the ordinance codified in this title or, if located within an area being annexed to the city, within six months of the effective date of annexation, whichever is later. (Ord. 2983 § 4, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22C.160.250 Amortization for billboard signs.

(1) Compliance. Any legal nonconforming billboard sign located within the corporate limits of the city shall be discontinued and removed from the property pursuant to this section no later than three years from the date of adoption by ordinance.

(2) Notice. The city will provide written notice of the expiration of the amortization period, as noted above, to the person, resident, or business responsible for such sign(s) at the last known address and to the owner of the property on which the sign is located. The city will utilize the tax assessor's office to find the latest, updated address for the property owner(s) in question. Such notice will be provided by mail, postmarked no later than nine months prior to expiration of the amortization period.

(3) Request for Consideration/Extension. The city has established the time period stated in subsection (1) of this section with the understanding that these time periods provide a reasonable time to recover the life expectancy of most signs. However, the city recognizes that there can be special or unusual circumstances that may fall outside of those parameters.

(a) Any person aggrieved by the imposition of the amortization clause may request review of the clause. The request for review shall be filed with the city not later than six months prior to the expiration of the amortization period. The review shall be heard by the hearing examiner. A fee will be charged based on the processing costs as provided in Chapter 22G.030 MMC.

(b) The aggrieved applicant has the burden of establishing the unreasonableness of the amortization period and must provide substantial evidence showing that the amortization period is unreasonable.

(c) The hearing examiner shall consider such things as lease obligations, remaining period of life expectancy of the nonconformance, depreciation, and the actual amount invested in the nonconforming sign.

(d) The hearing examiner shall consider the preservation and improvement of the city's physical environment, natural amenities, and desirable characteristics of the city as asserted in the purpose of the city's land use regulations as well as the goals and policies adopted in the city's comprehensive plan. The hearing examiner may consider any combination of these legitimate public concerns.

(e) The hearing examiner shall conduct a balancing of interest, considering the interest and hardship as to the applicant, and whether the hardship to the applicant reasonably overbalances the benefit that the public would derive from the termination of the nonconformance. If, after careful consideration, the hearing examiner determines that the amortization period, as applied to the applicant's nonconformance, would result in a greater hardship to the applicant than benefit to the public, the hearing examiner may extend the amortization period to a point in time when the balancing of interest would support the termination of the nonconformance. In no event should this amortization period be greater than three additional years.

(4) Annexations. Any legal nonconforming billboard on property annexed into the city at a later date shall be discontinued and removed within three years of the annexation or according to the annexation agreement established at the time of annexation. A three-year time extension may be approved by the hearing examiner, subject to the provisions contained in subsection (3) of this section. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.260 Bonus allowance for outstanding design.

(1) Purpose. A maximum 50 percent sign area bonus and a maximum 25 percent height bonus shall be allowed under any of the following circumstances:

(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 sign visibility.

(b) New developments greater than 10 acres in size that wish to consolidate the allowable signage. A minimum of two signs will be required to be consolidated for a bonus consideration.

(c) Contiguous or multi-tenant properties sharing the same street frontage that wish to consolidate allowable signage. A minimum of two signs will be required to be consolidated for a bonus consideration.

(2) Procedures. A request for a bonus allowance may be granted by the community development director subject to the approval criteria outlined in subsection (3) of this section. Appeal or request for reconsideration of the director's decision shall be made to the hearing examiner as an open record hearing in accordance with Chapter 22G.010 MMC, Article VIII, Appeals.

(3) Approval Criteria. A bonus will be approved if the community development director finds that the criteria below are met:

(a) The adjustment will not significantly increase or lead to street level sign clutter, to signs adversely dominating the visual image of the area, or to a sign that will be inconsistent with the objectives of a subarea master plan or special overlay district.

(b) The adjustment will not create a traffic or safety hazard.

(c) The adjustment will allow a unique sign of exceptional design or style that will:

(i) Achieve a positive and tasteful image;

(ii) Have good legibility;

(iii) Exhibit technical competence and quality in design, construction, and durability, and have standard details uncluttered by wires, angles, or other elements that detract from the appearance;

(iv) Relate to architectural features rather than obscure or disregard building planes;

(v) Present a harmonious relationship to other graphics and street furniture in the vicinity;

(vi) Be of a size that is in scale with the setting, building, or structure where located; and

(vii) Avoid glare.

(4) Application Requirements. An applicant requesting a bonus allowance under the provisions of this chapter shall submit the following:

(a) A letter in memorandum form outlining how the request is consistent with the criteria of this subsection.

(b) A site plan that is accurately drawn to an engineered scale that includes the following information:

(i) Boundaries and dimensions of the site;

(ii) Location of buildings, parking areas and adjacent streets;

(iii) Graphic representations of all existing signs including their size, height and placement on the site;

(iv) Graphic representation of the proposed sign(s) subject to the request; and

(v) Building elevation showing the placement of the sign on that elevation, if applicable.

(5) Timing. The community development director or designee shall render a written decision on the requested bonus for outstanding design within 10 business days of submittal of all required elements and filing fee.

(6) Variance Required. Requests that exceed the 50 percent sign area bonus and 25 percent height bonus, those that do not comply with the purpose outlined in subsection (1) of this section, or those not related to allowable sign height or sign area shall be processed as a variance in accordance with MMC 22C.160.270. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.270 Variances.

Any person may apply for a variance from the requirements of this chapter. Sign variances shall be processed by the hearing examiner pursuant to the procedure set forth in Chapter 22G.060 MMC. Variance applications shall be processed pursuant to the review procedures outlined in Chapter 22G.010 MMC. A fee will be charged based on processing costs as provided for in Chapter 22G.030 MMC. In making any decision on a variance application, the permit authority must adopt findings of fact and conclusions based on those findings that address whether or not the application meets the following criteria for approval:

(1) The variance does not conflict with the purpose and intent of the sign regulations;

(2) The variance shall not constitute a grant of special privilege inconsistent with the limitation upon signage of other properties that have had to conform to the provisions of this chapter;

(3) There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that are not contemplated or provided for by this chapter;

(4) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated; and

(5) The granting of such variance would not increase the number of signs allowed by this chapter or that would allow a type of sign that is prohibited by this chapter.

Conditions may be imposed upon the application as deemed necessary to ensure compatibility with this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22C.160.280 Substitution.

Notwithstanding anything in this chapter to the contrary, noncommercial copy expressing a personal, political, or religious point of view may be substituted for commercial copy on any lawful sign structure. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.170

MINI-STORAGE FACILITIES

Sections:

22C.170.010 Purpose.
22C.170.020 Use standards.
22C.170.030 Development standards.
22C.170.040 Design considerations.

22C.170.010 Purpose.

This chapter provides standards so that mini-storage facilities uses can be appropriately sited in close proximity to residential zones. (Ord. 2852 § 10 (Exh. A), 2011).

22C.170.020 Use standards.

Other uses on the site such as the rental of trucks or moving equipment must meet the use and development standards of the base zone, overlay zone, subarea or master plan. (Ord. 2852 § 10 (Exh. A), 2011).

22C.170.030 Development standards.

Mini-storage facilities are permitted in the zones listed in MMC 22C.020.060 subject to the following conditions:

(1) The required setbacks are:

(a) Street setback: 15 feet;

(b) Interior setback: 10 feet.

(2) Parking and internal drives are prohibited in setback areas.

(3) The accesses are required to be gated and monitored at all times. (Ord. 2852 § 10 (Exh. A), 2011).

22C.170.040 Design considerations.

The following exterior design requirements apply to a mini-storage facility when located adjacent to or across a right-of-way from a residentially zoned or designated property.

(1) Architectural Features. Architectural features are to be consistent with the character of the surrounding neighborhood. The following are minimum standards.

(a) Minimum roof pitch is 4:12.

(b) Exterior vertical surfaces require 50 percent of the area to be materials such as decorative brick veneer, stone, stucco, textured block, and other materials which reflect residential design elements.

(c) Unique architectural features such as towers, turrets and pergolas are subject to the standards of this subsection. An applicant is required to demonstrate that the proposed architectural features are consistent with the neighborhood character.

(d) Access points, except for emergency access, may not be from a local access street.

(e) Fencing is required to be low-maintenance material and articulation at intervals no greater than 20 feet. Chain-link fencing is not permitted.

(f) Display and floodlighting is required to be constructed, shielded and used so as not to directly illuminate, or create glare visible from, adjacent property or public right-of-way.

(g) A building or series of buildings parallel with and adjacent to residentially zoned or developed property or street frontage must have staggered setbacks for every 100 feet of lineal development. The setbacks shall 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. There must be at least 10 feet of separation between buildings.

(2) Landscaping and Screening. The following landscaping and screening requirements apply to all mini-storage facilities:

(a) All setback areas shall be landscaped with a variety of trees, shrubs and ground cover plants consistent with L2 landscaping as defined under Chapter 22C.120 MMC, Landscaping and Screening.

(b) A solid wall, a screening fence or a combination of both achieving a perimeter screening to a minimum of six feet in height is required and shall be located so that a minimum of 75 percent of the landscaping area is outside the fence.

(c) All use of the site shall comply with the city noise standards stated in Chapter 6.76 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.180

ACCESSORY STRUCTURES

Sections:
22C.180.010 Purpose.
22C.180.020 Accessory structure standards.
22C.180.030 Accessory dwelling unit standards.

22C.180.010 Purpose.

The purpose of this chapter is to allow for residential accessory structures, including 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. The accessory structure must be clearly secondary to the primary use. Accessory structures or uses may not be established until the principal structure is constructed on the property. (Ord. 2852 § 10 (Exh. A), 2011).

22C.180.020 Accessory structure standards.

In the zones in which a residential accessory structure is listed as a permitted use, the community development director or designee shall review all proposals to construct an accessory structure. The following standards and regulations shall apply to all proposed accessory structures; provided, that accessory dwelling units shall only be allowed in zones where they are a permitted use and shall also comply with the standards set forth in MMC 22C.180.030:

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

(a) The footprint of all detached accessory structures shall not exceed the lesser of:

(i) Fifteen percent of the total lot area in the R-4.5, R-6.5, R-8 and WR-R-4-8 zones, or 20 percent of the total lot area in the R-12 through R-28 and WR-R-6-18 zones; or

(ii) Eighty percent of the footprint of the primary residential structure.

(b) The height of all detached accessory structures shall not exceed 20 feet, except that detached accessory structures containing an accessory dwelling unit shall not exceed the base height for the zone.

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

(2) A detached garage, carport or other permitted accessory building may be located in the rear yard; provided, that:

(a) Not more than 50 percent of the required rear setback area is covered; and

(b) Accessory structure(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

(c) Vehicle access points from garages, carports, fenced parking areas or other accessory structure(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 structure's entrance faces an alley with a right-of-way width of 10 feet, in which case the accessory structure(s) shall not be located within 20 feet from the rear lot line; and

(d) In Planning Area 1 "Downtown Neighborhood," the rear setbacks outlined in subsections (2)(b) and (c) of this section may be reduced to two feet from the rear lot line; provided, that the alley right-of-way is a minimum of 20 feet in width. Where the alley right-of-way is less than 20 feet in width, the property owner shall be required to dedicate to the city sufficient property to widen the abutting alley to the full width as measured from the design centerline, so as to conform to the applicable road standards specified by the city engineer. Upon dedication of the necessary right-of-way, the rear setback may be reduced to two feet from the rear lot line. Where an existing, nonconforming structure is internally remodeled to include an accessory dwelling unit, but the footprint of the structure is not increased, the structure can be allowed to remain at a zero setback; provided, that the right-of-way is 20 feet in width; and

(e) Detached accessory buildings exceeding one story shall provide the minimum required yard setbacks for principal buildings in the zone; and

(f) An accessory structure, which is located in the rear setback area, may be attached to the principal structure; provided, that no portion of the principal building is located within the required yard setbacks for principal structures in the zone.

(3) A detached garage, carport or other permitted accessory structure 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:

(a) Accessory structures that are located in the front or side yard, or on the flanking street side of a corner lot, shall be consistent with the architectural character of the residential neighborhood in which they are proposed to be located, and shall be subject to, but not limited to, the following development standards:

(i) The accessory structure shall be consistent with the architectural character of the principal structure; and

(ii) The accessory structure shall have a roof pitch similar to the principal structure and have siding and roofing materials similar to or compatible with those used on the principal structure. No metal siding or roofing shall be permitted unless it matches the siding and roofing of the principal structure, or unless it is a building material that is of a residential character such as metal tab roofing or other products consistent with standard residential building materials. Plans for the proposed accessory structure(s) indicating siding and roofing materials shall be submitted with the application; and

(iii) Detached accessory structures located in the front or side yard shall provide the minimum required yard setback for principal structures in the zone.

(4) The community development director is specifically authorized to allow an increase in the size of a detached accessory structure over the requirements outlined in subsection (1) of this section; provided, that the accessory structure(s) shall be compatible with the principal structure and/or neighborhood character. To make this determination, the community development director may consider such factors that include, but are not limited to, view obstruction, roof pitch, building materials, screening and landscaping, aesthetic impact on surrounding properties and streetscape, incompatible scale with dwellings on surrounding properties, and impact on neighborhood character. The community development director shall also have the authority to impose greater setback requirements, landscape buffers, or other locational or design requirements as necessary to mitigate the impacts of accessory structures which are greater in size than otherwise allowed by this section. (Ord. 2898 § 14, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.180.030 Accessory dwelling unit standards.

In the zones in which an accessory dwelling is listed as a permitted use, the community development 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 22C.110 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, and shall comply with the density and dimensional requirements set forth in MMC 22C.010.080. 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 community development 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 community development director and the building official; or

(b) The subject lot ceases to maintain at least three off-street parking spaces; or

(c) The owner ceases to reside in either the principal or the accessory dwelling unit; provided, that in the event of illness, death or other unforeseeable event which prevents the owner's continued occupancy of the premises, the community development director may, upon a finding that discontinuance of the accessory dwelling unit would cause a hardship on the owner and/or tenants, grant a temporary suspension of this owner-occupancy requirement for a period of one year. The community development director may grant an extension of such suspension for one additional year, upon a finding of continued hardship. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.190

HOME OCCUPATIONS

Sections:

22C.190.010 Purpose.
22C.190.020 Home occupation standards.

22C.190.010 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. 2852 § 10 (Exh. A), 2011).

22C.190.020 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, Internet 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 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;

(j) Signs in connection with the home occupation shall comply with the restrictions of MMC 22C.160.150(9);

(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 ensure 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.

(5) The community development director shall have authority to administratively grant a minor modification to the standards listed in subsections (1)(a) and/or (c) of this section, provided the use is consistent with the purposes of this chapter and will be operated in harmony with the character of a residential neighborhood. Minor modifications shall be limited to the home occupations standards in subsections (1)(a) and (c) of this section, provided they create no significant impacts to the residential neighborhood. The community development director is authorized to approve minor modifications only in cases of unique circumstances such as large property acreage, remote site access or site location, or small scale of use, when these circumstances ensure the commercial operation remains incidental to the dwelling and in no way alters the normal residential character of the premises. No variance shall be granted which would be detrimental to public health, welfare or environment. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.200

DAY CARE STANDARDS

Sections:

22C.200.010 Purpose.
22C.200.020 Development standards.
22C.200.030 Permit required.

22C.200.010 Purpose.

The purpose of this chapter is to facilitate unobtrusive day care I facilities, which include family day care homes, adult day cares and adult family care uses, within a residence when such facility is accessory to the residential use 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. 2852 § 10 (Exh. A), 2011).

22C.200.020 Development standards.

The following restrictions apply to day care I facilities:

(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, if applicable, 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) Where outdoor recreation facilities are provided for children in day care facilities, they shall be screened by a fence at least four feet high where abutting residentially zoned property.

(4) The facility shall provide a safe passenger loading area.

(5) The day care provider shall provide written notification to immediately adjoining property owners of the intent to locate and maintain a facility. (Ord. 2852 § 10 (Exh. A), 2011).

22C.200.030 Permit required.

A day care I home occupation permit is required, subject to the following conditions:

(1) A day care I home occupation permit issued to one person shall not be transferable to any other person; nor shall a day care I home occupation permit be valid at any other address than the one listed on the permit.

(2) In granting approval for a day care I home occupation, the community development director, or designee, may attach additional conditions to

ensure the home occupation will be in harmony with, and not detrimental to, the character of the residential neighborhood.

(3) Any day care I 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.210

BED AND BREAKFASTS

Sections:

22C.210.010 Purpose.
22C.210.020 Bed and breakfast inn and guesthouse standards.

22C.210.010 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. 2852 § 10 (Exh. A), 2011).

22C.210.020 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 22C.130 MMC, Parking and Loading. 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) Business identification and advertising signs shall comply with Chapter 22C.160 MMC, Signs.

(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 allowed signage, 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 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.

(h) If three or more guest rooms are proposed, the applicant shall also meet state requirements for a "transient accommodation license," as required by Chapter 70.62 RCW, as now written or hereafter amended.

(i) 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.220

MASTER PLANNED SENIOR COMMUNITIES

Sections:

22C.220.010 Intent and purpose.
22C.220.020 Applicability.
22C.220.030 Master planned senior community – Site qualifications.
22C.220.040 Permitted uses.
22C.220.050 Procedures for review and approval.
22C.220.060 Required elements of master planned senior community site plan and application.
22C.220.070 Affordability – Low-income housing units.
22C.220.080 Age requirements.
22C.220.090 Development regulations.
22C.220.100 Modification of development regulations.

22C.220.010 Intent and purpose.

This chapter is intended to provide for developments that incorporate a variety of housing, care options, and related uses for senior citizens. Developments may consist of individual lots or may have common building sites. It is further intended that commonly owned land be related to and preserve the long-term value of the development. This chapter is not intended to be used for the development of a single use or housing type, which would otherwise be permitted in other zones under the regular zoning provisions.

In addition, the purpose of this chapter is as follows:

(1) To allow the development of unique communities in residential, commercial and public/institutional zones that are designed to accommodate the increased housing needs of senior citizens and disabled persons, through the provision of a variety of housing types, services and continuum of care, including independent senior housing, assisted living and nursing care, as well as recreation, dining and on-site medical facilities and services.

(2) To encourage long-time Marysville residents to remain in the community.

(3) To encourage/implement active aging strategies within senior communities.

(4) To ensure that the requirements of the Americans with Disabilities Act (ADA) and universal design principles are incorporated within senior communities.

(5) To ensure that affordable and special needs housing opportunities are dispersed throughout the city, not concentrated.

(6) To permit higher densities for senior housing that provides amenities and services.

(7) To assist in meeting Snohomish County Tomorrow fair share housing allocation targets for special needs housing and services. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.020 Applicability.

An applicant may request to utilize the master planned senior community provisions if the site meets the site qualification criteria of this chapter and concurrently utilizes a land division process or a commercial/multifamily site plan. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.030 Master planned senior community – Site qualifications.

A master planned senior community (MPSC) may be established at a particular location if the following site qualifications are met:

(1) The site development must incorporate a range of housing and care options for seniors, including a mix of independent senior housing, senior assisted living and nursing facilities. At the discretion of the community development director, a development providing for a range of care types, but not necessarily all of those listed in this subsection, may be permitted, subject to satisfactory demonstration by the applicant that the resulting community meets the intent and purpose of these regulations.

(2) The site must be served by adequate public facilities, including public sewers, water supply, roads and other needed public facilities and services.

(3) The site must have close proximity to existing or planned services.

(4) The site shall be a minimum of 20 units, with at least 50 percent of all units in the community being senior apartments/multifamily, assisted living or nursing home/convalescent care units or beds. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.040 Permitted uses.

The following uses are permitted in master planned senior communities:

(1) Age-restricted, independent housing, attached or detached.

(2) Age-restricted, independent apartments, townhomes or condos (multifamily units).

(3) Senior citizen assisted living dwelling units/facilities.

(4) Convalescent, nursing, and rest homes.

(5) Accessory uses. Services and businesses that serve the residents of the senior community, including recreational, educational, health, personal, professional and business services and retail stores, shall be permitted. In residential zones, these uses shall be sized for and used solely by residents of the community. Such uses shall be integrated with the units and oriented towards the interior of the project; no signs or other evidence of business facilities shall be visible from the periphery of the community. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.050 Procedures for review and approval.

The master planned senior community review and approval process shall occur concurrently with the underlying land use action. The decision-making authority for the underlying land use action shall also be the decision-making authority for the MPSC.

(1) Site Plan. A site plan meeting the requirements of this chapter, Chapters 22C.010 and 22C.020 MMC, and, when applicable, Chapters 22G.090 and 22G.100 MMC shall be submitted with all applications for an MPSC. The site plan may be approved, approved with conditions, or denied by the city. Specific development regulations may be modified in accordance with this chapter, and special requirements may be applied to the property within the MPSC. Modifications and special requirements shall be specified in the approval and shown on the approved site plan.

(2) Decision Criteria. It is the responsibility of the applicant to demonstrate the criteria in this subsection have been met. The city may place conditions on the MPSC approval in order to fulfill the requirements and intent of the city's development regulations, comprehensive plan, and subarea plan(s). The following minimum criteria must be met for approval to be granted:

(a) Consistency with Applicable Plans and Laws. The development will comply with all applicable provisions of state law, the Marysville Municipal Code, the comprehensive plan, and any applicable subarea plan(s).

(b) Public Facilities. The community shall be served by adequate public facilities, including streets, bicycle and pedestrian facilities, fire protection, water, storm water control, sanitary sewer, and parks and recreation facilities.

(c) Perimeter Design. The perimeter of the master planned senior community shall be compatible in design, character, and appearance with the

existing or intended character of development adjacent to the subject property and with the physical characteristics of the subject property.

(d) Streets, Sidewalks and Parking. Existing and proposed streets and sidewalks within the development shall be suitable and adequate to carry anticipated motorized and pedestrian traffic within the proposed project and in the vicinity of the subject property. Adequate parking shall be provided to meet or exceed the applicable requirements of the Marysville Municipal Code.

(e) Landscaping shall be provided for public and semi-public spaces and shall integrate them with private spaces. Landscaping shall create a pleasant streetscape and provide connectivity between homes, facilities, and common areas, using trees, shrubs and ground cover throughout the development and providing for shade and visual relief while maintaining a clear line of sight throughout the public and semi-public spaces.

(f) Maintenance Provisions. A means of maintaining all common areas, such as a homeowner's association, shall be established, and legal instruments shall be executed to provide maintenance funds and enforcement provisions.

(3) Amendments. An approved MPSC may be amended in accordance with the applicable provisions of the Marysville Municipal Code.

(4) Duration of Approval. The duration of approval for an MPSC shall be the same as the underlying land use action, plat, or binding site plan.

(5) Compliance. Any use of land which requires MPSC approval, as provided in this chapter, and for which approval is not obtained, or which fails to conform to an approved MPSC and final site plan, constitutes a violation of this title. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.060 Required elements of master planned senior community site plan and application.

All MPSCs shall be subject to site plan approval as provided in this chapter. The following are minimum requirements for the site plan and supplemental application materials:

(1) A site plan drawing, showing property dimensions and boundaries, existing and proposed topography, critical areas, proposed access to the site, size and shape of all building sites and lots, and location of all building pads and open space areas;

(2) A written explanation of the desired age restriction for the community;

(3) Calculation of total project land area and net project density;

(4) The total number of proposed dwelling units/beds and a description of the housing type for each such unit;

(5) Existing development within 200 feet of the site;

(6) 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;

(7) Landscaping plan, including plant locations and species size at planting, together with location and typical side view of perimeter fencing or berms, if any;

(8) Plans for all attached dwellings, multiple-family dwellings and assisted living and nursing facilities, 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;

(9) Plans for signing and lighting, including typical side view of entrance treatment and entrance signs;

(10) The location of all solid waste collection points, proposed meter locations, water mains, valves, fire hydrants, sewer mains, laterals, manholes, pump stations, and other appurtenances;

(11) Conceptual drainage plans demonstrating feasibility of the proposed facilities;

(12) Project staging or phases, if any;

(13) Draft restrictive covenants including provisions to address enforcement of age restrictions, affordability requirements, parking, ongoing maintenance of open space, recreation facilities and common areas;

(14) Design analysis to demonstrate the relationship of the development to surrounding land uses, with cross sections, renderings or elevation drawings showing the scale and character of the development;

(15) Descriptions of the design features and general size and layout of the proposed dwellings to demonstrate their appropriateness for the age-restricted population. The material submitted must indicate how the use of universal design features will make individual dwelling units adaptable to persons with mobility or functional limitations and how the design will provide accessible routes between parking area, sidewalks, dwelling units, and common areas; and

(16) Such additional information as the city may deem necessary. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.070 Affordability – Low-income housing units.

(1) Covenant and Duration. An agreement in a form approved by the city must be recorded on the property requiring affordable dwelling units which are provided under the provisions of this section to remain as affordable housing for the life of the project. The agreement shall also specify aspects of renter and/or buyer eligibility, rent and/or sales price levels and requirements for reporting to the city or authorized housing agency and shall be recorded at final approval. This agreement shall be a covenant running with the land, binding on the assigns, heirs and successors of the applicant.

(2) Affordability Criteria.

(a) At least 10 percent of the total dwelling units developed shall be available at affordable housing costs and occupied by low-income households, as defined in subsection (2)(b) of this section. This applies to both rental and ownership projects.

(b) For the purposes of this chapter, "affordable housing" is defined as rental or ownership housing having total housing costs, including basic utilities and any common charges and/or maintenance fees, that do not exceed 30 percent of the designated income limit for the housing unit.

(c) Rental Housing Unit. Affordable rental units shall be permanently priced and occupied by households with a total household income at or below 50 percent of the Snohomish County median family income, adjusted for family size, as reported annually by the U.S. Department of Housing and Urban Development.

(d) Ownership Housing Unit. Affordable ownership units shall be reserved for income- and asset-qualified home buyers with a total household income at or below 80 percent of the Snohomish County median family income, adjusted for family size, as reported annually by the U.S. Department of Housing and Urban Development. Affordable ownership units shall be limited to owner-occupied housing, with prices restricted to same income group, based on current underwriting ratios and other lending standards.

Underwriting is based on the projected mortgage for which a family with a maximum income of 80 percent of the median family income can qualify, plus related housing costs. Housing costs to be included in the calculation for the sales price include the expected principal and interest on the mortgage loan, property taxes, homeowners insurance (PITI), and any common charges, homeowners' association fees and/or maintenance fees.

(e) Required affordable housing shall be provided in a range of sizes comparable to other units within the development and, to the extent practicable, the number of bedrooms in the affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units shall generally be distributed throughout the development and have substantially the same functionality as other units in the development. (Ord. 2898 § 16, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22C.220.080 Age requirements.

At least one household member must be 55 years of age or older. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.090 Development regulations.

(1) Existing amenities (e.g., views, mature trees, etc.) that are unique to the site should be preserved and incorporated into the project's design whenever possible.

(2) When an MPSC project adjoining residential and commercial uses can mutually benefit from connection rather than separation, appropriate connective elements (e.g., walkways) should be provided.

(3) The site shall be designed and developed utilizing crime prevention through environmental design (CPTED) principles as set forth in MMC 22C.010.290 and 22C.020.250.

(4) Building Design and Layout.

(a) Development of the site is subject to compliance with development standards outlined in Chapters 22C.010 and 22C.020 MMC.

(b) When a master planned senior community is located within, or adjacent to, single-family residential zones and is, or may be, surrounded by traditional single-family development, the community shall be designed and developed so as to be consistent with a single-family residential environment. Larger scale (i.e., multi-unit buildings, nursing care facilities) buildings shall be located on the site so as to least impact surrounding single-family uses and to create a consistent streetscape that is in the desired character for a residential area.

(c) When a master planned senior community is located within, or adjacent to, commercial or multifamily zones and is or may be surrounded by traditional commercial or multifamily development, any multi-unit buildings and nursing care facilities on the site shall be placed to consider the

visual continuity between the proposed and existing adjacent development with respect to building setbacks and placement of structures to create a consistent streetscape.

(d) Multiple buildings in a single project should provide a functional relationship with one another to achieve a sense of place by use of the following techniques:

(i) Cluster buildings around open space areas or courtyards, not parking lots.

(ii) Provide open space areas and courtyards with landscaping and other pedestrian amenities.

(iii) Provide convenient pedestrian circulation between buildings, open space, and parking areas.

(iv) Link buildings together visually, using such elements as trellis structures, arcades, and/or enhanced paving.

(v) Where feasible and desirable, locate buildings near public streets, thus creating a strong presence thereon.

(5) Building and Unit Design. Universal design (also known as "aging in place") is a method of design that seeks to create development that can be used by everyone, regardless of age or physical condition. All projects shall implement, at minimum, the following universal design principles:

(a) No-step entries.

(b) One-story living such that an eating area, bathroom, and sleeping area are available on the same floor.

(c) ADA accessible doors, hallways and bathrooms.

(d) Room thresholds that are flush.

(e) Adequate lighting throughout the dwelling unit.

(6) Architectural Style and Design Guidelines. Multifamily and nursing/assisted living facilities shall comply with MMC 22C.010.290 and MMC 22C.020.250. Attached/detached single-family dwelling units shall comply with MMC 22C.010.310.

(7) Utility and Mechanical Equipment.

(a) All mechanical equipment shall be architecturally screened from view.

(b) Utility equipment (e.g., electric and gas meters, electrical panels, and junction boxes) should be located in utility rooms within the structure or utility cabinets with exterior access.

(8) Solid Waste and Recycling. Developments shall provide storage space and collection points for solid waste and recyclables in accordance with Chapter 7.08 MMC, MMC 22C.010.370 and 22C.020.320.

(9) Parking and Circulation.

(a) Project entries should provide the resident and visitor with an overview of the project through either an easy visual assessment (in smaller projects) or by providing signage or placards that illustrate the circulation, parking, building, and amenity layout of the project.

(b) The principal vehicular access should be through an entry drive rather than a parking aisle, when possible. Colored, textured paving treatment at entry drives together with lush landscaping is strongly encouraged.

(c) The number of required off-street parking stalls shall be in accordance with MMC 22C.130.030. The community development director may approve alternative parking requirements upon satisfactory demonstration by the applicant that the site will have adequate parking to serve all proposed uses and/or that the community is located within walking distance of a neighborhood center that offers a variety of services and a safe walking route is provided.

(d) If parking is not attached to the residential structures, covered carports and dispersed parking courts are the desired alternative.

(e) A parking court should not consist of more than two double-loaded parking aisles (bays) adjacent to each other.

(f) Carports should provide no more than five parking spaces within each structure. The structures should be constructed with material consistent with those used in building construction.

(g) All parking standards identified in Chapter 22C.130 MMC, Parking and Loading, shall apply, except as may be specified herein.

(10) Pedestrian Access.

(a) Drop-off points should be provided at major building entries and plaza areas.

(b) The project should be designed to minimize the need for pedestrians to cross parking aisles and landscape islands to reach building entries.

(c) Stamped or painted concrete walkways should be provided in areas where it is necessary for pedestrians to cross drive or parking aisles.

(d) All projects shall provide a clear connection between the on-site pedestrian circulation system and the off-site public sidewalk.

(11) Landscaping. Landscaping shall comply with Chapter 22C.120 MMC, Landscaping and Screening, except as may be specified herein.

(12) Public Transportation Amenities.

(a) A sheltered bus stop with a canopy provided with architecture consistent with the project

shall be provided, if required in coordination with local transit agencies.

(b) In cases when a public bus stop is, or may be in the future, located within the frontage of a proposed site, a bus stop or cover shall be provided.

(13) On-Site Common Recreational Facilities.

(a) Recreational amenities shall be appropriately distributed throughout the community. Such facilities shall consist of open or enclosed areas for residents of the community to congregate for recreation and leisure. Structures with multiple-family style dwelling units (i.e., independent senior housing apartment units, assisted living dwelling units, etc.) shall provide open space or active or indoor recreation space consistent with the following chart:

Type of Dwelling Unit	Outdoor Open Space	Active Outdoor or Indoor 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

(b) The following standards shall be utilized for outdoor recreational facilities:

(i) The design and orientation of these areas should take advantage of available sunlight and should be sheltered from the noise and traffic of adjacent street or other incompatible uses.

(ii) Each outdoor open space area should have a focal point. The focal point may consist of, but need not be limited to, water fountains, landscape planters, monuments, waterways, view points, artwork, trellises or gazebos. The focal point of all open space areas shall complement one another by maintaining a common theme, consistent furnishing, and signage.

(iii) On-site outdoor recreation space shall:

(A) Be of a grade and surface suitable for recreation;

(B) Be one continuous parcel if less than 3,000 square feet in size;

(C) Have no dimension less than 30 feet (except trail segments);

(D) Be situated and designed to be visible from adjacent buildings and uses on site; and

(E) Be accessible and convenient to all residents within the development.

(iv) The required amount of on-site common recreation space may be reduced by the community development director, if it is demonstrated that the facilities provided on site will offer residents with exceptional opportunities to participate in active aging (i.e., physical activity programs, trails, tennis courts, swimming pools, or other amenities deemed appropriate), and/or if it is demonstrated that the community is located within walking distance of a pedestrian-friendly neighborhood center and a safe walking route is provided.

(14) Private Open Space. Each single-family attached or detached dwelling unit shall be provided a private open space area, free and clear of any attached or detached accessory structures, as follows:

(a) Each unit shall be provided 100 square feet of private yard with a minimum interior dimension of 10 feet.

(b) The required amount of private open space may be reduced by the community development director as provided in subsection (13)(b)(iv) of this section.

(15) Covenant and Duration. An agreement in a form approved by the city must be recorded on the property requiring that the provisions of this chapter, including age restrictions and site plan approval, be maintained for the life of the project. The agreement shall be recorded prior to building permit issuance. This agreement shall be a covenant running with the land, binding on the assigns, heirs and successors of the applicant. (Ord. 2852 § 10 (Exh. A), 2011).

22C.220.100 Modification of development regulations.

The city's standard development regulations shall be modified for a master planned senior community as provided in this section.

(1) Density and Dimensions. The standard dimensional regulations shall apply to all lots and development in a master planned senior community, except as specifically modified below and as provided in the design review standards in Chapters 22C.010, 22C.020 and/or 22G.080 MMC. The density permitted is modified as follows:

(a) Modified Density Standards:

	Residential Zones	Commercial Zones
Maximum Density: Dwelling Unit/Acre	As per the underlying zone plus 20%	None

(b) When projects are proposed on sites that encompass multiple zones, the density built on each zone will be limited to that of the underlying allowed density for each zone.

(2) Maximum Building Height. Outside of Planning Area 1, buildings or portions of buildings located within 50 feet of a property that is zoned single-family, or where the predominant adjacent use is single-family, shall be limited to a maximum height of 30 feet.

(3) Street Standards. When multiple detached single-family or duplex units are proposed, the project shall meet residential right-of-way and access standards as set forth in the Marysville Municipal Code and engineering development and design standards (EDDS). An applicant may request to utilize the city's PRD access street standards, which may be allowed at the discretion of the community development director.

(4) Open Space. Open space requirements may be modified consistent with this chapter.

(5) Additional Modifications. An applicant may request additional dimensional, open space, street, and design standard modifications beyond those provided in this section. Granting of the requested modification(s) will be based on innovative and exceptional architectural design features and/or innovative and exceptional site design and layout that contribute to achieving the purpose of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.230

MOBILE HOME PARKS

Sections:

22C.230.010 Purpose.
22C.230.020 General requirements.
22C.230.030 Mobile/manufactured home park zone.
22C.230.040 Procedures for review and approval.
22C.230.050 Development standards.
22C.230.060 Required elements of site plans.
22C.230.070 Design standards.
22C.230.080 Park administration.
22C.230.090 Authority to issue permits for and inspect installations of mobile/manufactured homes.
22C.230.100 Permits for mobile/manufactured homes.
22C.230.110 Permits for accessory structures.
22C.230.120 Inspections.
22C.230.130 Installation standards.
22C.230.140 Insignia requirement.
22C.230.150 Standards for existing parks.

22C.230.010 Purpose.

The purpose of this chapter shall be to ensure 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. 2852 § 10 (Exh. A), 2011).

22C.230.020 General requirements.

(1) Mobile/manufactured homes shall be used for residential purposes only, except for limited home occupations as provided for in Chapter 22C.190 MMC, and except in cases of temporary uses as defined in Chapter 22C.110 MMC, subject to strict compliance with the requirements of said chapter.

(2) No space shall be rented for any purpose within a mobile/manufactured home park except for a permanent residence.

(3) No person, company or corporation shall establish a new mobile/manufactured home park, or enlarge the size of or increase the allowed density of an existing mobile/manufactured home park, without first complying with the provisions of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22C.230.030 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 through R-28), or planned residential development classification (PRD 4.5 through PRD 8).

(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 22C.010.060 and 22C.020.060;

(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. 2852 § 10 (Exh. A), 2011).

22C.230.040 Procedures for review and approval.

(1) Rezone. For an MHP overlay zoning classification to be enacted, all procedural requirements, including filing fees specified in MMC Title 22G, 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 22C.230.060(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 22C.230.060(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 community development 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 community development director; provided, that if said modification or amendment affects the external impacts of the mobile/manufactured home park, or is determined by the community development 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 22G.010 MMC, Article VI, Land Use Application – Decision Criteria.

(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 22G.040 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 community development director and security for performance in accordance with the provisions of Chapter 22G.040 MMC and acceptable to the community development director is received by the city. The community development director may also require security for maintenance for a period of up to five years in accordance with the provisions of Chapter 22G.040 MMC.

(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 are 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. 2852 § 10 (Exh. A), 2011).

22C.230.050 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 ensure 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. 2852 § 10 (Exh. A), 2011).

22C.230.060 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, telephone numbers and e-mail addresses of the owners of record of the land, and if applicable, the names, addresses, telephone numbers and e-mail addresses 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 storm water drainage facilities, retention/detention ponds, and oil/water separators;

(j) A certificate of approval prepared for the signature of the community development director. (Ord. 2852 § 10 (Exh. A), 2011).

22C.230.070 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 30 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 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 five 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 ground cover, 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 screen landscaped to the L1 standards shall be provided (see Chapter 22C.120 MMC, Landscaping and Screening);

(b) Where abutting a major arterial, a minimum 20-foot-wide screen landscaped to the L1 standards shall be provided (see Chapter 22C.120 MMC, Landscaping and Screening); 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 shall be landscaped with a minimum five-foot screen landscaped to the L3 standards (see Chapter 22C.120 MMC, Landscaping and Screening);

(d) Bulk storage and parking areas shall be landscaped with a minimum five-foot screen landscaped to the L2 standards (see Chapter 22C.120 MMC, Landscaping and 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 flashing. Said sign shall comply with Chapter 22C.160 MMC;

(b) Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc., shall comply with Chapter 22C.160 MMC.

(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 hard surfaced with asphaltic concrete, or crushed gravel, if approved by the city engineer. Crushed gravel bulk storage and parking areas, if approved by the city engineer, shall be surfaced with no less than three inches of crushed gravel and maintained in a dust-free condition. (Ord. 2852 § 10 (Exh. A), 2011).

22C.230.080 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 community development 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 community development 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. 2852 § 10 (Exh. A), 2011).

22C.230.090 Authority to issue permits for and inspect installations of mobile/manufactured homes.

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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.230.100 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) Permit Fees.

(a) Single-wide: $200.00.

(b) Double-wide: $300.00.

(c) State Building Code Council surcharge (SBCC fee): $4.50.

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. 2852 § 10 (Exh. A), 2011).

22C.230.110 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. 2852 § 10 (Exh. A), 2011).

22C.230.120 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 re-inspect 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. 2852 § 10 (Exh. A), 2011).

22C.230.130 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 WAC Title 296. 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. 2852 § 10 (Exh. A), 2011).

22C.230.140 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 Marys-

ville 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, and 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. 2852 § 10 (Exh. A), 2011).

22C.230.150 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 International Building Code (IBC), International Residential Code (IRC) and the International Fire Code (IFC) shall apply;

(3) Recreational vehicles utilized as a permanent residence are permitted provided utility hookups are provided and meet current adopted standards for mobile/manufactured home parks;

(4) An existing mobile home park may be enlarged; provided, the proposed enlargement meets the standards set forth in MMC 22C.230.050 through 22C.230.070;

(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 22E.010 MMC, Critical Areas Management. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.240

RECREATIONAL VEHICLE PARKS

Sections:

22C.240.010 Purpose.
22C.240.020 General requirements.
22C.240.030 Criteria for locating a recreational vehicle park.
22C.240.040 Conditional use permit required.
22C.240.050 Health district approval required.
22C.240.060 Final site plan.
22C.240.070 Completion prior to occupancy – Phasing.
22C.240.080 Design standards.
22C.240.090 Accessory uses.
22C.240.100 Park administration.

22C.240.010 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. 2852 § 10 (Exh. A), 2011).

22C.240.020 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 22C.110 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 22C.110 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. 2852 § 10 (Exh. A), 2011).

22C.240.030 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, ground water 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. 2852 § 10 (Exh. A), 2011).

22C.240.040 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. 2852 § 10 (Exh. A), 2011).

22C.240.050 Health district approval required.

Prior to occupancy of a recreational vehicle 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. 2852 § 10 (Exh. A), 2011).

22C.240.060 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 within 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 community development director; provided, that if said modification or amendment affects the external impacts of the recreational vehicle park, or is determined by the community development 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 22G.010.340. (Ord. 2852 § 10 (Exh. A), 2011).

22C.240.070 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 approved by the community development director and security for performance in accordance with the provisions of Chapter 22G.040 MMC and acceptable to the community development director is received by the city. The community development director may also require security for maintenance for a period up to five years in accordance with the provisions of Chapter 22G.040 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22C.240.080 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 ground cover, 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) Along the exterior site boundary, a minimum 20-foot-wide screen landscaped to the L1 standards shall be provided (see Chapter 22C.120 MMC, Landscaping and Screening). 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 22C.160 MMC;

(c) Directional and information signs for the convenience of occupants of the park in compliance with Chapter 22C.160 MMC.

(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. 2852 § 10 (Exh. A), 2011).

22C.240.090 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. 2852 § 10 (Exh. A), 2011).

22C.240.100 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. 2852 § 10 (Exh. A), 2011).

Chapter 22C.250

WIRELESS COMMUNICATION FACILITIES

Sections:

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22C.250.120 Amateur radio antennas.

22C.250.010 Purpose.

The purpose of this chapter is to:

(1) Establish clear regulations for the siting and design of wireless communication facilities consistent with federal regulations.

(2) Promote the health, safety, and general welfare of the public by regulating the siting of WCFs.

(3) Minimize impacts of WCFs on surrounding areas by establishing standards for location, structural integrity, and compatibility.

(4) Encourage the location and co-location of wireless communication equipment on existing structures.

(5) Minimize visual, aesthetic, public safety, and environmental and wildlife effects.

(6) Accommodate the growing need and demand for wireless communication services.

(7) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.

(8) Encourage orderly development in a preferred hierarchy using concealed technologies. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.020 Applicability.

(1) If a conflict arises between this chapter and the provisions of another chapter regarding wireless communication facilities, this chapter shall govern.

(2) Facilities regulated by this chapter include the construction, modification, and placement of all WCFs, FCC-regulated amateur radio antennas, dish antennas, and any antennas used for MMDS or

wireless cable, and wireless service facilities (i.e., cellular phone service, PCS – personal communication services, wireless paging services, wireless Internet services, etc.). Wireless services shall be subject to the following regulations to the extent that such requirements:

(a) Do not unreasonably discriminate among providers of functionally equivalent services;

(b) Do not have the effect of prohibiting personal wireless services within the city of Marysville. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.030 Exemptions from land use review.

The following are exempt from the provisions of this chapter:

(1) Amateur radio antenna operated by a federally licensed amateur radio operator as part of the amateur or business radio service are exempt from the provisions of this chapter except MMC 22C.250.040 and 22C.250.120.

(2) Citizen band or two-way radio antenna including any mast.

(3) Satellite earth stations (satellite dishes) that are one meter (39.37 inches) or less in diameter in all residential districts and two meters or less in all other zoning districts and which are not greater than 20 feet above grade in residential districts and 35 feet above grade in all other zoning districts.

(4) A temporary commercial wireless communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the city, except that such facility must comply with all federal and state requirements. Said wireless communications facility may be exempt from the provisions of this chapter up to one week prior and one week after the special event.

(5) In the event a building permit is required for any emergency repair, notification in writing to the director of community development shall occur within 24 hours of identification of the needed repair, and filing of the building permit application shall be done in compliance with the city's adopted building code. (In the event a building permit is required for nonemergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall be required prior to the commencement of such nonemergency activities.)

(6) Antenna modifications, provided there is no increase in the height of the antenna support structure; and provided, that the size of the replaced antennas is not increased.

(7) The siting of wireless service facilities is categorically exempt from the State Environmental Policy Act (SEPA) if the proposed facilities meet the requirements established in WAC 197-11-800(25) and MMC 22E.030.090(3)(a) as adopted or otherwise amended. (Ord. 2988 § 1, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22C.250.040 Permit required.

The following table summarizes the types of proposal and required land use approvals. All proposals are subject to the siting hierarchy requirements of this chapter.

Concealed Attached WCF	WCF Consolidation	Concealed Co-Location	Flush- or Nonflush-Mounted Antenna on Existing Antenna Support Structure	New Concealed Antenna Support Structure	Combined on Existing WCF	Amateur Radio Antennas
P1, 3 C	C	P1 C	P1 C	C	P1 C	P2

P – Permitted Use. The use is allowed subject to the requirements of this code.

C – Conditional Use Permit. The use is allowed subject to the conditional use review procedures and requirements of this code.

Notes:

1. If the proposal does not extend the height of a structure outside the public right-of-way by more than 40 feet, the structure is in compliance with the maximum allowed WCF height for the zone, and it is demonstrated that the proposal is consistent with any previous relevant approval conditions.
2. Amateur radio antennas are permitted subject to MMC 22C.250.120.
3. Concealed attached WCFs proposed within the public right-of-way are subject to MMC 22C.250.070(3).

(Ord. 2852 § 10 (Exh. A), 2011).

22C.250.050 Application requirements.

In addition to any information required for CUP, ROW permit, or building permit review, an application for new WCFs or modifications to WCFs that require city approval shall provide the following information:

(1) A site plan showing existing and proposed WCFs, access, base station, ancillary structures, warning signs, fencing, landscaping and any other items necessary to illustrate compliance with the development standards of this chapter.

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(2) A stamped statement by a state of Washington registered professional engineer that the support structure shall comply with EIA/TIA-222-G (as amended), and the allowable wind speed for the applicable zone in which the facility is located, and that describes the general structural capacity of any proposed WCF(s), including:

(a) The number and type of antennas that can be accommodated;

(b) The basis for the calculation of capacity; and

(c) A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards.

Some or all of the requirements listed in this subsection may be waived for applications for attachments to utility poles, provided a letter is submitted from the appropriate utility agency accepting responsibility for design of the structure.

(3) A report by the applicant that includes a description of the proposed WCF, including height above grade, justification for the proposed height of the structure and evaluation of alternative designs which might result in lower heights, materials, color, lighting, and information demonstrating compliance with siting hierarchy.

(4) Where a permit for an attachment or co-location is required, the application shall also include the following information:

(a) The name and address of the operator(s) of proposed and existing antennas on the site;

(b) The height of any proposed antennas;

(c) Manufacture, type, and model of such antennas;

(d) Frequency, modulation, and class of service; and

(e) A description of the wireless communication service that the applicant intends to offer to provide or is currently offering or providing within the city.

(5) A detailed visual simulation of the wireless communication facility shall be provided along with a written report from the applicant, including a map showing all locations where an unimpaired signal can be received for that facility (propagation map).

(6) If applicable, approved franchise agreement, or completed franchise agreement application and related fees.

(7) Other information as the director of community development may reasonably require.

(8) Fees for review as established by the city's most current fee resolution.

The community development director may release an applicant from having to provide one or more of the pieces of information on this list upon a finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.060 Siting hierarchy.

Siting of antenna or support structures shall adhere to the siting hierarchy of this section. The order of ranking for antenna or antenna support structures, from highest to lowest, shall be 1, 2, 3, 4. Where letters (a, b) are present, a is preferable to b. Where a lower ranking alternative is proposed, the applicant must submit relevant information including but not limited to an affidavit by a licensed radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranking options are not technically feasible or justified given the location of the proposed wireless communications facility and network need.

Example: A new facility meeting the definition of a concealed consolidated WCF is proposed; the applicant demonstrates that the new facility cannot be sited under hierarchy (1)(a) through (1)(b). The applicant then demonstrates the new facility cannot be sited under hierarchy 2. The applicant then moves to hierarchy 3 and is able to propose a site.

1	Co-location with existing antenna support structure: a. That requires no increase in pole or structure height. b. That requires an increase in pole or structure height, which shall comply with MMC 22C.250.080(3).
2	New concealed antenna support structure or concealed consolidation: • On developed, improved sites in nonresidential zoning districts; or • On publicly owned land. Concealed attached WCF: • Within public parks, public open spaces, and on other publicly owned land; or • Within public rights-of-way; or • Within nonresidential zoning districts or residential zoning districts on lots not used for single-family residential purposes.
3	Concealed consolidations: a. In nonresidential zoning districts. b. In residential zoning districts on lots not used for single-family residential purposes.

4	New concealed antenna support structure: a. In nonresidential zoning districts. b. In residential zoning districts on lots not used for single-family residential purposes.

The community development director may allow the siting of a facility in a location at a lower position in the hierarchy without demonstration that higher ranking options are not technically feasible or justified, provided the applicant demonstrates that the proposed facility location would result in a lesser visual/aesthetic impact and better meets the purposes of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.070 General requirements.

(1) Co-located or combined facilities shall comply with the following requirements:

(a) Co-location of antennas onto existing antenna support structures meeting the dimensional standards of this chapter are permitted outright. Antenna mounts shall be flush-mounted onto existing antenna support structure, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area. Furthermore, an antenna shall only extend vertically above the uppermost portion of the structure to which it is mounted or attached as follows:

(i) Not more than 20 feet on a nonresidential structure; and

(ii) Not more than 15 feet on a multifamily structure.

(b) Co-location of antennas onto a new antenna support structure constructed after May 1, 2006, shall be concealed.

(c) At the time of installation, the WCF base station and ancillary structures shall be brought into compliance with any applicable landscaping requirements.

(d) A co-located or combined WCF, its new base station, and any new ancillary structures shall be subject to the setbacks of the underlying zoning district.

(e) When a co-located or combined WCF is to be located on a nonconforming building or structure, then it shall be subject to the nonconformance provisions of Chapter 22C.100 MMC.

(2) Concealed attached WCFs outside of the public ROW shall comply with the following requirements:

(a) Concealed antennas shall reflect the visual characteristics of the structure to which they are attached and shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color, and texture. This shall include the use of colors and materials, as appropriate. When located on structures such as buildings or water towers, the placement of the antenna on the structure shall reflect the following order of priority in order to minimize visual impact:

(i) A location as close as possible to the center of the structure; and

(ii) Along the outer edges or side-mounted; provided, that in this instance, additional means such as screens should be considered and may be required by the department on a case-by-case basis; and

(iii) When located on the outer edge or side-mounted, be placed on the portion of the structure less likely to be seen from adjacent lands containing, in descending order of priority, existing residences, public parks and open spaces, and public roadways.

(b) The top of the concealed attached WCF shall not be more than 40 feet above the existing or proposed nonresidential building or structure, or more than 15 feet above a residential building. Maximum height must be consistent with MMC 22C.250.080(3).

(c) Feed lines shall be contained within a principal building or encased and the encasement painted to blend and match the design, color, and texture of the facade, roof, wall, or structure to which they are affixed.

(3) Concealed attached WCFs proposed within the public right-of-way shall comply with the following requirements:

(a) An existing pole may be extended or replaced with a new pole, provided the original pole height may be increased by no more than the sum of the height of the wireless antenna(s) and necessary equipment, plus the minimum vertical separation distance as required by the utility agency.

(b) The pole must serve the original purpose and, if replaced, must be of similar appearance and composition as adjacent utility poles. The community development director may authorize the utilization of a composition material other than that of adjacent poles if it can be demonstrated that the utility's engineering requirements necessitate that the different material be utilized.

(c) Antennas shall be flush-mounted.

(d) Field changes necessary in order to meet other utility agency requirements shall be reviewed

and approved by the city prior to structure installation.

(4) Concealed antenna support structures shall comply with the following requirements:

(a) Upon application for a new concealed antenna support structure, the applicant shall provide a map showing all existing antenna support structures or other suitable nonresidential structures located within one-quarter mile of the proposed structure with consideration given to engineering and structural requirements.

(b) No new antenna support structure shall be permitted if an existing structure suitable for attachment of an antenna or co-location is located within one-quarter mile, unless the applicant demonstrates that the existing structure is physically or technologically unfeasible, or is not made available for sale or lease by the owner, or is not made available at a market rate cost, or would result in greater visual impact. The burden of proof shall be on the applicant to show that a suitable structure for mounting of antenna or co-location cannot be reasonably or economically used in accordance with these criteria.

(c) In residential districts, new concealed antenna support structures shall only be permitted on lots whose principal use is not single-family residential, including but not limited to schools, churches, synagogues, fire stations, parks, and other public property.

(d) To the extent that there is no conflict with the color and lighting requirements of the Federal Communications Commission and the Federal Aviation Administration for aircraft safety purposes, new antenna support structures shall be concealed as defined by this title and shall be configured and located in a manner to have the least visually obtrusive profile on the landscape and adjacent properties.

New concealed antenna support structures shall be designed to complement or match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture and designed to blend with existing surroundings to the extent feasible. This shall be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the proposed concealed antenna support structure from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

(e) At time of application the applicant shall file a letter with the department, agreeing to allow co-location on the tower. The agreement shall commit the applicant to provide, either at a market rate cost or at another cost basis agreeable to the affected parties, the opportunity to co-locate the antenna of other service providers on the applicant's proposed tower to the extent that such co-location is technically and structurally feasible for the affected parties.

(f) All new concealed antenna support structures up to 60 feet in height shall be engineered and constructed to accommodate no less than two antenna arrays. All concealed antenna support structures between 61 feet and 100 feet shall be engineered and constructed to accommodate no less than three antenna arrays. All concealed antenna support structures between 101 and 140 feet shall be engineered and constructed to accommodate no less than four antenna arrays.

(g) Those providing for co-location shall also submit a plan for placement of base station equipment for potential future providers and/or services provided by additional antenna arrays.

(h) Grading shall be minimized and limited only to the area necessary for the new WCF.

(5) Consolidation of WCFs shall comply with the following requirements: consolidation of two or more existing WCFs may be permitted pursuant to the provisions of this chapter, including a CUP and consideration of the following:

(a) WCF consolidation shall reduce the number of WCFs.

(b) If a consolidation involves the removal of WCFs from two or more different sites and if a consolidated WCF is to be erected on one of those sites, it shall be erected on the site that provides for the greatest compliance with the standards of this chapter.

(c) Consolidated WCFs shall be concealed.

(d) All existing base stations and ancillary equipment shall be brought into compliance with this chapter.

(e) New WCFs approved for consolidation of an existing WCF shall not be required to meet new setback standards so long as the new WCF and its base station and ancillary structures are no closer to any property lines or dwelling units than the WCF and base station and ancillary structures being consolidated. For example, if a new WCF is replacing an old one, the new one is allowed to have the same setbacks as the WCF being removed, even if the old one had nonconforming setbacks.

(f) If the consolidated WCF cannot meet the setback requirements, it shall be located on the portion of the parcel on which it is situated which, giv-

ing consideration to the following, provides the optimum practical setback from adjacent properties:

(i) Topography and dimensions of the site;

(ii) Location of any existing structures to be retained. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.080 Design standards.

(1) All WCFs shall:

(a) Be designed and constructed to present the least visually obtrusive profile.

(b) Use colors such as grey, blue, or green that reduce visual impacts unless otherwise required by the city of Marysville, FAA, or FCC.

(c) Flush-mount antennas when feasible. Non-flush-mounted antennas are allowed only upon written demonstration by the applicant that flush-mounting is not feasible.

(2) Base Stations.

(a) Base stations that are not located underground shall not be visible from public views.

(b) New base stations and ancillary structures shall be designed to complement or match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture and designed to blend with existing surroundings to the extent feasible. This shall be achieved through the use of compatible colors and building materials of existing buildings or structures on the property, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the base station and ancillary structures from pedestrian views. Where feasible, one building with multiple compartments shall be constructed to serve the total number of anticipated co-location tenants. If the applicant can demonstrate that one building is not feasible or practical due to site design or other constraints, then a site plan shall be provided to demonstrate how all potential base stations and ancillary structures will be accommodated within the vicinity of the WCF.

(3) Height Standards. The height of the antenna support structure shall be measured from the natural undisturbed ground surface below the center of the base of the tower to the top of the tower or, if higher, to the top of the highest antenna or piece of equipment attached thereto. The height of any WCF shall not exceed the heights provided in the table below.

Zone	Maximum Height
GC, DC, CB, NB, GI, LI, MU, PI, BP	140 feet
R4.5 – R28	80 feet
Open Space and Recreation	140 feet

Notes:

(1) New antenna support structures must comply with MMC 22C.250.070(4)(e) through (g).

(2) Increases to the height of an existing antenna support structure are permitted, provided:

(a) It is consistent with all conditions of the CUP authorizing the use and subsequent approvals thereafter;

(b) The existing conditions and the proposed changes are not in violation of the MMC;

(c) It is necessary to accommodate an actual co-location of the antenna for additional service providers or to accommodate the current provider's antenna required to utilize new technology, provide a new service, or increase capacity;

(d) Height increases are limited to no more than 40 feet above the height of the existing antenna support structure unless explicitly allowed in the CUP;

(e) A nonconformance shall not be created or increased, except as otherwise provided by this chapter;

(f) A detailed certification of compliance with the provisions of this section is prepared, submitted, and approved.

(4) Setback Requirements.

(a) Antenna support structures outside of the right-of-way shall have a setback from property lines of 10 feet from any property line and 50 feet or one foot set back for every one foot in height from any residentially zoned property, whichever provides the greatest setback.

(b) Base stations shall be subject to the setback requirements of the zone in which they are located.

(c) The department shall consider the following criteria and give substantial consideration to on-site location; setback flexibility is authorized when reviewing applications for new antenna support structures and consolidations:

(i) Whether existing trees and vegetation can be preserved in such a manner that would most effectively screen the proposed tower from residences on adjacent properties;

(ii) Whether there are any natural landforms, such as hills or other topographic breaks, that can be utilized to screen the tower from adjacent residences;

(iii) Whether the applicant has utilized a tower design that reduces the silhouette of the por-

tion of the tower extending above the height of surrounding trees.

(5) Landscaping and Fencing Requirements.

(a) All ground-mounted base stations and ancillary structures shall be enclosed with an opaque fence or fully contained within a building. In all residential zones, or a facility abutting a residential zone, or in any zone when the base station and ancillary structures adjoin a public right-of-way, the fence shall be opaque and made of wood, brick, or masonry. In commercial or industrial zones, if a chain-link fence is installed, slats shall be woven into the security fence. Required fencing shall be of sufficient height to screen all ground equipment and shall be subject to MMC 22C.010.380 and 22C.020.330. The city shall have the authority to determine the type of enclosure and materials required based upon review of existing site and surrounding conditions.

(b) Landscaping shall be done in accordance with Chapter 22C.120 MMC.

(c) When a fence is used to prevent access to a WCF or base station, any landscaping required shall be placed outside of the fence.

(d) Landscaping provisions may be modified in accordance with MMC 22C.120.190.

(6) Lighting Standards. Except as specifically required by the FCC or FAA, WCFs shall not be illuminated, except lighting for security purposes that is compatible with the surrounding neighborhood. Any lighting required by the FAA or FCC must be the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable to minimize the potential attraction to migratory birds. Dual lighting standards (white blinking light in daylight and red blinking light at dusk and nighttime) are required and strobe light standards are prohibited unless required. The lights shall be oriented so as not to project directly onto surrounding residential property, and consistent with FAA and FCC requirements.

(7) Signage. Commercial messages shall not be displayed on any WCF. The only signage that is permitted upon an antenna support structure, base station, or fence shall be informational, and for the purpose of identifying the antenna support structure (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the antenna support structure, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters (minimum letter height of four inches) the following: HIGH VOLTAGE – DANGER.

(8) Sounds. Maximum permissible sound levels to intrude into the real property of another person from a wireless communication facility shall not exceed 45 dB(A). In the case of maintenance, construction, and emergencies, these sound levels may be exceeded for short durations as required by the specific circumstance. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.090 Technical evaluation.

The city may retain the services of an independent technical expert such as a registered professional electrical engineer accredited by the state of Washington who holds a federal communications general radio telephone operator license. The engineer will provide technical evaluation of permit applications for WCFs. The applicant shall pay all the costs of said review. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.100 Interference.

Whenever the city encounters radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCFs, the following steps shall be taken:

(1) Upon notification by the city to WCF service providers potentially interfering with public safety communications equipment, the providers shall cooperate and coordinate with the city and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.

(2) If any WCF owner fails to cooperate with the city in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the city public safety communications equipment, the owner who fails to cooperate and/or the owner of the WCF which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the city for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the jurisdiction to determine the source of the interference. For the purposes of this subsection, failure to cooperate

shall include failure to initiate any response or action as described in the "Best Practices Guide" within 24 hours of the city's notification. (Ord. 2852 § 10 (Exh. A), 2011).

22C.250.110 Cessation of use.

(1) 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. An extension may be requested and granted for up to 12 months by the community development director if good cause is shown, the WCF is maintained, and conditions would not be detrimental to the public health, safety, or general welfare. 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. 2852 § 10 (Exh. A), 2011).

22C.250.120 Amateur radio antennas.

Amateur radio antennas and support structures are subject to the following:

(1) Maximum height shall be 75 feet, measured pursuant to the definition of WCF height.

(2) Antennas or antenna support structures shall not be permitted in any setback area or within any front yard area. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.260

LOW IMPACT DEVELOPMENT

Sections:

22C.260.010 Purpose.
22C.260.020 Applicability.
22C.260.030 Protected native vegetated areas.
22C.260.040 Preservation and amendment of topsoils.
22C.260.050 Storm water management.
22C.260.060 Maximum impervious surfaces.
22C.260.070 Density bonus and dimensional standard modifications.
22C.260.080 Review process.

22C.260.010 Purpose.

The purpose of this chapter is to permit design flexibility and provide performance criteria for low impact development. Low impact development (LID) is a storm water management and land development strategy utilized in site design and construction that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic natural hydrologic functions. Implementation of LID benefits streams, lakes, and Puget Sound by moderating the impacts of storm water runoff generated by the built environment. LID techniques may supplant or augment traditional, structural storm water management solutions. Low impact best management practices (BMPs) are described in the Low Impact Development Technical Guidance Manual for Puget Sound, 2005, published by the Puget Sound Action Team. LID objectives are:

(1) To retain or restore native forest cover to capture, infiltrate, and evaporate all or a portion of the rainfall on a site;

(2) To confine development to the smallest possible footprint and minimize land disturbance and site grading;

(3) To preserve or restore the health and water-holding capacity of soils;

(4) To incorporate natural site features that promote storm water infiltration;

(5) To minimize all impervious surfaces and especially those that drain to conventional piped conveyances;

(6) To manage storm water through infiltration, bioretention, and dispersion; and

(7) To manage storm water runoff as close to its origin as possible in small, dispersed facilities. (Ord. 2852 § 10 (Exh. A), 2011).

22C.260.020 Applicability.

(1) Conformance with this chapter shall be required:

(a) Where specified in an adopted basin plan pursuant to Chapter 14.18 MMC; or

(b) When a site has committed to being a LID project pursuant to MMC 14.15.062.

(2) Modifications of this chapter are allowed for any proposed development subject to a determination of the applicable review authority that the proposal substantially furthers all objectives in MMC 22C.260.010. (Ord. 2852 § 10 (Exh. A), 2011).

22C.260.030 Protected native vegetated areas.

A portion of the site shall be preserved as protected native vegetated area.

(1) Protected native vegetated areas shall be designated in the following ratios:

(a) Residential developments: proposed at six dwelling units per acre or less shall preserve 35 percent of the site as native growth areas.

(b) Residential developments: proposed at more than six dwelling units per acre shall preserve 20 percent of the site as native growth areas.

(c) Commercial developments: shall preserve 10 percent of the site as native growth or landscaped areas.

(d) Improvements within existing public rights-of-way are exempt.

(2) For the purposes of calculating required area, submerged lands and sensitive areas and buffers required to be protected pursuant to Chapter 22E.010 MMC shall not be included.

(3) Protected native vegetated areas shall be forested. Where existing vegetation provides minimal canopy cover or where nonnative or invasive plant species provide the predominant cover, a planting 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. This requirement does not apply to preserved wetlands. All plant species shall be native. Seventy percent of planted trees shall be deciduous species of at least one and one-half inch in caliper. Evergreen trees shall be six feet in height. The community development director may modify the requirements of this section based on site conditions.

(4) Clearing limits shall be surveyed, staked, and fenced with erosion control and/or clearing limits fencing prior to any construction work, including grading and clearing.

(5) Trees shall not be removed from areas proposed to meet the protected native growth area requirement during site development.

(6) Monitoring and maintenance of plants shall be required in accordance with MMC 22E.010.260.

(7) Development within protected native vegetated areas shall be limited to biofiltration swales, storm water dispersion facilities, pervious pedestrian trails, and approved surface water restoration projects. Activities within the protected native growth areas shall be limited to passive recreation, removal of invasive species, amendment of disturbed soils consistent with all applicable regulations, and planting of native vegetation. Development shall be consistent with critical areas requirements and restrictions in Chapter 22E.010 MMC.

(8) A permanent protective mechanism shall be legally established to ensure that the required protected native vegetated area is preserved and protected in perpetuity in a form that is acceptable to the city and filed with the county auditor's office. A permanent protected native vegetated area shall be established using one of the following mechanisms:

(a) Placement in a separate nonbuilding tract owned in common by all lots within a subdivision;

(b) Covered by a protective easement or public or private land trust dedication;

(c) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as subsection (8)(a) of this section as determined by the community development director or hearing examiner.

(9) Restrictions on the future use of the protective native vegetated area shall be recorded on the face of the final plat, short plat, binding site plan, or site plan. (Ord. 2852 § 10 (Exh. A), 2011).

22C.260.040 Preservation and amendment of topsoils.

The duff layer and native topsoils shall be retained in an undisturbed state to the maximum extent practicable.

(1) Any duff or topsoil removed during grading shall be stockpiled on-site in a designated, controlled area not adjacent to public resources and critical areas. The material shall be reapplied to other portions of the site where feasible.

(2) Except as otherwise provided in subsection (3) of this section, areas that have been cleared and graded or subject to prior disturbance shall be amended. Prior disturbance shall include soil compaction or removal of some or all of the duff layer or underlying topsoil. The amendment shall take place between May 1st and October 1st. Replaced

topsoil shall be a minimum of eight inches thick, unless the applicant demonstrates that a different thickness will provide conditions equivalent to the soil moisture holding capacity native to the site. Replacement topsoil shall have an organic content of between eight and 13 percent dry weight and a pH suitable for the proposed landscape plants.

(3) This section does not apply to areas within the dripline of existing trees proposed for retention, or areas that, at project completion, are covered by an impervious surface, incorporated into a drainage facility or engineered as structural fill or slope. (Ord. 2852 § 10 (Exh. A), 2011).

22C.260.050 Storm water management.

LID projects shall use infiltration, dispersion, and bioretention to the maximum extent practicable to manage storm water runoff generated on-site.

(1) Infiltration shall be used except where a site assessment demonstrates that infiltration is not feasible due to site conditions or due to probable risk to ground water or to other property.

(2) LID projects shall meet the minimum peak and duration flow control standards per the Department of Ecology Stormwater Management Manual for Western Washington, current city-adopted edition.

(3) Flow control facilities may be reduced in size through compliance with LID Technical Guidance Manual Section 7.2.2 – full dispersion for all or part of the development site.

(4) Water quality treatment BMPs shall be provided to treat 91 percent of the annual runoff volume per the Department of Ecology standards.

(5) All site soils disturbed during construction shall be rehabilitated to the specifications of Integrated Management Practice 6.2 of the Low Impact Development Technical Guidance Manual for Puget Sound (2005).

Table 22C.260.050-1

	Pond Reduction (Infiltration < 0.30 in./hr. or less)	**Pond Reduction (Infiltration = 0.30 in./hr. or more)**
Rural Residential	100%	100%
Urban Residential < 6.0 Dwelling Units Per Acre	50%	60%
Urban Residential ≥ 6.0 Dwelling Units Per Acre	50%	60%
Multifamily	40%	80%
Commercial	40%	80%
Roads	50%	50%

The volume reduction in Table 22C.260.050-1 represents a reduction as compared to the volume needed for a detention pond serving a standard development. Subsections (5)(a) through (d) of this section apply to the table.

(a) Infiltration rates are as measured in the field at the proposed LID location using techniques recommended in the Stormwater Management Manual for Western Washington and the Low Impact Technical Guidance Manual for Puget Sound.

(b) Multifamily projects are those projects containing more than three dwelling units attached in a single structure, regardless of ownership mechanism.

(c) All projects with Type A (outwash) soils shall infiltrate 100 percent of runoff.

(d) 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. (Ord. 2852 § 10 (Exh. A), 2011).

22C.260.060 Maximum impervious surfaces.

LID projects shall limit impervious surface coverage as follows:

(1) New impervious surface shall not exceed 70 percent of the site for nonresidential uses outlined in MMC 22C.010.060 and 22C.020.060.

(2) New impervious surface coverage shall not exceed the maximum limits in the following table for residential uses listed in MMC 22C.010.060 and 22C.020.060 except hotel/motel uses:

Table 22C.260.060-2
Maximum Percent Impervious Area Based on Residential Density

Dwelling Units Per Acre	Maximum % Impervious
≤ 1.4 du/ac	10%
1.5 – 2.4 du/ac	15%
2.5 – 3.4 du/ac	20%
3.5 – 4.9 du/ac	30%
5.0 – 6.9 du/ac	35%
7.0 – 9.9 du/ac	40%
10.0 du/ac or greater	60%

(Ord. 2852 § 10 (Exh. A), 2011).

22C.260.070 Density bonus and dimensional standard modifications.

(1) Development may be granted a density incentive pursuant to Chapter 22C.090 MMC.

(2) The city, in its discretion, may allow the following modifications to residential dimensional standards in MMC 22C.010.080(2) to meet the protected native growth area requirement in MMC 22C.260.030 and to accommodate density bonuses received pursuant to Chapter 22C.090 MMC:

(a) Minimum lot area may be reduced for single-family dwellings to 4,000 square feet in the R-6.5 zone and 3,500 square feet in the R-8 zone.

(b) Minimum lot width may be reduced to 40 feet in the R-4.5 and R-6.5 zones.

(3) Modifications requested under this section shall require a justification of necessity according to the provisions of subsection (1) of this section. (Ord. 2852 § 10 (Exh. A), 2011).

22C.260.080 Review process.

(1) Except as specifically modified by this chapter, all development occurring under this chapter shall be subject to all applicable requirements and processes of the Marysville Municipal Code.

(2) All standards and requirements of this chapter shall be conditions of approval for the underlying development permits.

(3) All development proposed under this chapter shall be subject to the site assessment requirements of MMC 14.15.062(2). Applicants are encouraged to meet with public works and planning staff following completion of the site assessment and prior to site design to discuss additional analysis that may be required to support the use of LID BMPs, preliminary recommendations on meeting the storm water regulations, and low impact options for site design. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22C.270

SOLAR ENERGY SYSTEMS

Sections:
22C.270.010 Purpose.
22C.270.020 Development standards.

22C.270.010 Purpose.

This chapter provides standards so that clean energy sources can be encouraged while ensuring compatibility of the energy system with the principal use of the property and minimizing adverse impacts on surrounding properties. (Ord. 2870 § 3, 2011).

22C.270.020 Development standards.

Solar panels or arrays are permitted as an accessory use to commercial and residential uses subject to the following conditions:

(1) The solar panel or array must not be located within a required setback, or on a structure within a required setback;

(2) Solar panels or arrays may extend above the base height for the zone; provided, that they are mounted at the minimum height necessary to generate usable energy;

(3) The solar panel or array shall not cause excessive glare or reflections so as to constitute a hazard to pedestrians and/or vehicular traffic;

(4) Any installation of a solar panel or array shall comply with any and all applicable provisions of the International Building Code, International Residential Code, International Fire Code, and National Electrical Code;

(5) The solar panel, array, and/or accessory components located on the ground shall be located in the side or rear yards in residential zones, and screened with a minimum six-foot-tall, sight-obscuring fence in both residential and commercial zones. The community development director may waive or modify the screening requirement under the following circumstances:

(a) The screening will render the solar system ineffective and there are no suitable alternative locations on site to locate the solar system where screening is feasible; or

(b) Where abutting uses will not be adversely affected by an unscreened solar system due to existing physical improvements, physiographic features, landscaping and/or other factors.

(6) No interconnected solar energy system shall be installed unless evidence has been submitted to the city that the utility company has been informed of the customer's intent to install an interconnected customer-owned, solar energy system. Off-grid systems shall be exempt from this requirement. (Ord. 2870 § 3, 2011).

Title 22D

CITY-WIDE STANDARDS

Chapters:

22D.010 Mitigation of Impacts Resulting from Development Proposals
22D.020 Parks, Recreation, Open Space and Trail Impact Fees and Mitigation
22D.030 Traffic Impact Fees and Mitigation
22D.040 School Impact Fees and Mitigation
22D.050 Clearing, Grading, Filling, and Erosion Control

Chapter 22D.010

MITIGATION OF IMPACTS RESULTING FROM DEVELOPMENT PROPOSALS

Sections:

22D.010.010 Policy.
22D.010.020 Projects subject to mitigation requirements.
22D.010.030 Mitigation requirements identified.
22D.010.040 Mitigation of adverse impacts.
22D.010.050 Recovery contracts.
22D.010.060 Credit against mitigation assessment for dedication of land.
22D.010.070 Credits for public work on regional improvements.
22D.010.080 Use of mitigation assessments.
22D.010.090 Appeals to the city council.

22D.010.010 Policy.

It is the policy of the city of Marysville to implement the State Environmental Policy Act, Chapter 43.21C RCW, and the State Subdivision Code, Chapter 58.17 RCW, 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. 2852 § 10 (Exh. A), 2011).

22D.010.020 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 the 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. 2852 § 10 (Exh. A), 2011).

22D.010.030 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. 2852 § 10 (Exh. A), 2011).

22D.010.040 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. 2852 § 10 (Exh. A), 2011).

22D.010.050 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. Such contracts shall be governed by the following provisions:

(1) Within 30 days after the improvements are 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 street improvements would be required by this chapter to make similar improvements at the time development is proposed for said parcels.

(3) 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.

(4) A preliminary determination of area boundaries and assessments, along with a description of the property owner's rights and options, 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 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.

(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 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 shall become immediately due and payable to the city as a condition of receiving development approval.

(7) All assessments collected by the city pursuant to a recovery contract, less the city's administrative charge, shall be paid to the original proponent or 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. (Ord. 2852 § 10 (Exh. A), 2011).

22D.010.060 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 in MMC 22D.010.040, 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 pre-existing 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, to 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 desires 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 in MMC 22D.010.040 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. 2852 § 10 (Exh. A), 2011).

22D.010.070 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. 2852 § 10 (Exh. A), 2011).

22D.010.080 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. 2852 § 10 (Exh. A), 2011).

22D.010.090 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. 2852 § 10 (Exh. A), 2011).

Chapter 22D.020

PARKS, RECREATION, OPEN SPACE AND TRAIL IMPACT FEES AND MITIGATION

Sections:

22D.020.010 Authority.
22D.020.020 Purposes.
22D.020.030 Payment of impact fees required.
22D.020.040 Exemptions to the requirement to pay impact fees.
22D.020.050 Computing required impact fees using adopted impact fee schedules.
22D.020.060 Computing required impact fees based on an independent fee calculation study.
22D.020.070 Credits and adjustments to required impact fee payments.
22D.020.080 Appeals and payments under protest.
22D.020.090 Impact fee accounts and disbursements.
22D.020.100 Impact fee refunds.
22D.020.110 Annual impact fee report.
22D.020.120 Periodic review of fee schedules.
22D.020.130 Formula for determining park, recreation, open space or trail impact fees.
22D.020.140 Severability.
22D.020.150 No special duty created.
22D.020.160 Emergency.

22D.020.010 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. 2852 § 10 (Exh. A), 2011).

22D.020.020 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. 2852 § 10 (Exh. A), 2011).

22D.020.030 Payment of impact fees required.

(1) 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 22D.020.050 or 22D.020.060 to the city of Marysville finance department or its designee. Except as otherwise provided in this section and MMC Title 22, 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.

(2) Deferral of Impact Fee Payments Allowed.[1]

(a) Required impact fee payments may be deferred to final inspection for single-family residential dwelling or multifamily projects with 25 or fewer units.

(b) Payment of required impact fees for a commercial building, industrial building, or multifamily development exceeding 25 units may be deferred from the time of building permit issuance in accordance with the following:

(i) Fifty percent of the impact fees shall be paid prior to approved occupancy of the structure; and

(ii) The remaining 50 percent of the impact fees shall be paid within 18 months from the date of building occupancy, or when ownership of the property is transferred, whichever is earlier.

(c) The finance department shall allow an applicant to defer payment of the impact fees when, prior to submission of a building permit application for deferment under subsection (2)(b) of this section or prior to final inspection for deferment under subsection (2)(a) of this section, the applicant:

(i) Submits a signed and notarized deferred impact fee application and acknowledgement form for the development for which the property owner wishes to defer payment of the impact fees; and

(ii) With regard to deferred payment under subsection (2)(b) of this section, records a lien for impact fees against the property in favor of the city in the total amount of all deferred impact fees for the development. The lien for impact fees shall:

(A) Be in a form approved by the city attorney; and

(B) Include the legal description, tax account number and address of the property.

(d) Upon receipt of final payment of all deferred impact fees for the development, the department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their expense, will be responsible for recording each lien release.

(e) In the event that the impact fees are not paid in accordance with subsection (2)(b) of this section, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW, except as revised herein. In addition to any unpaid impact fees, the city shall be entitled to interest on the unpaid impact fees at the rate provided for in RCW 19.52.020 and the reasonable attorney fees and costs incurred by the city in the foreclosure process. Notwithstanding the foregoing, prior to commencement of foreclosure, the city shall give not less than 30 days' written notice to the person or entity whose name appears on the assessment rolls of the county assessor as owner of the property via certified mail with return receipt requested and regular mail advising of its intent to commence foreclosure proceedings. If the impact fees are paid in full to the city within the 30-day notice period, no attorney fees, costs and interest will be owed.

(f) In the event that the deferred impact fees are not paid in accordance with this section, and in addition to foreclosure proceedings provided in subsection (2)(e) of this section, the city may initiate any other action(s) legally available to collect such impact fees.

(g) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the impact fees.

(h) The deferred payment options set forth in this section shall automatically terminate three years from the effective date of the ordinance codified in this section without further action of the city council. (Ord. 2904 § 1, 2012; Ord. 2852 § 10 (Exh. A), 2011).

1. Code reviser's note: Section 4 of Ord. 2904 states that there shall be a $200.00 processing fee which shall be paid at the time of application for deferral of impact fees as set forth in MMC 22D.020.030(2).

22D.020.040 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 is 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 business 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 22D.020.050(2) requires the payment of impact fees.

(d) Temporary uses and structures authorized by Chapter 22C.110 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 22C.180 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. 2852 § 10 (Exh. A), 2011).

22D.020.050 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	$1,251.00
Multifamily residences	1 housing unit	$884.00

Note: Land uses are defined in Chapter 22A.020 MMC.

(Ord. 2852 § 10 (Exh. A), 2011).

22D.020.060 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 22D.020.050, 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 22D.020.050 for one or more impact fees.

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(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 22D.020.050. If an acceptable independent fee calculation study is presented, the fee may be adjusted to that appropriate to the particular development activity. (Ord. 2852 § 10 (Exh. A), 2011).

22D.020.070 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 or 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 22D.020.050 or 22D.020.060.

(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 were 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. 2852 § 10 (Exh. A), 2011).

22D.020.080 Appeals and payments under protest.

(1) Any decision made by the planning director, or 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 MMC Title 22G. 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. 2852 § 10 (Exh. A), 2011).

22D.020.090 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 10 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 10 years. (Ord. 2986 § 1, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22D.020.100 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 22D.020.090(5) unless the city council has extended the 10-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 22D.020.090(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 22D.020.090(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 22G.010 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. 2986 § 2, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22D.020.110 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. 2852 § 10 (Exh. A), 2011).

22D.020.120 Periodic review of fee schedules.

The city council shall review the fee schedules in MMC 22D.020.050 at least once every four years. (Ord. 2852 § 10 (Exh. A), 2011).

22D.020.130 Formula for determining park, recreation, open space or trail impact fees.

(1) The park, recreation, open space or trail impact fees for MMC 22D.020.050(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 22D.020.050(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. 2852 § 10 (Exh. A), 2011).

22D.020.140 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. 2852 § 10 (Exh. A), 2011).

22D.020.150 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. 2852 § 10 (Exh. A), 2011).

22D.020.160 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

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fiscal impacts of delay on the city and in order to preserve the public health, safety and welfare. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22D.030

TRAFFIC IMPACT FEES AND MITIGATION

Sections:

22D.030.010 Findings.
22D.030.020 Declaration of purpose.
22D.030.030 Relationship to environmental impacts.
22D.030.040 Definitions.
22D.030.050 Road policy – General provisions.
22D.030.060 Traffic study.
22D.030.070 Determination and fulfillment of road system obligations.
22D.030.080 Appeals.
22D.030.090 Severability and duty.

22D.030.010 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. 2852 § 10 (Exh. A), 2011).

22D.030.020 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 22D.030.040(10), 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 MMC 22D.030.040. 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. 2852 § 10 (Exh. A), 2011).

22D.030.030 Relationship to environmental impacts.

The requirements of this title, together with the comprehensive plan adopted pursuant to Chapter 36.70A RCW and MMC Title 22, 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 22E.030 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. 2852 § 10 (Exh. A), 2011).

22D.030.040 Definitions.

(1) "Approving authority" means the city employee, agency or official having authority to issue the approval or permit for the development involved.

(2) "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.

(3) "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.

(4) "Capacity improvements" means any improvements that increase the vehicle and/or people moving capacity of the road system.

(5) "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.

(6) "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.

(7) "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.

(8) "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.

(9) "Developer" means the person applying for or receiving a permit or approval for a development as defined in subsection (10) of this section.

(10) "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 that:

(a) Require land use permits or approval by the city of Marysville; or

(b) Which are located in areas of the county or other cities and which will impact the city of Marysville's public road system.

"Development" does not include building permits for single-family residential dwellings, attached or detached accessory apartments, or duplex conversions, on existing tax lots.

(11) "Direct traffic impact" means any new vehicular trip added by new development to its road system as defined in subsection (20) of this section.

(12) "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.

(13) "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, and sidewalk; storm drainage improvements; bus pullouts and waiting areas where necessary; bicycle lanes and bicycle paths where applicable; and lane improvements.

(14) "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.

(15) "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 accor-

dance with the department policy and procedure for the determination of inadequate road conditions.

(16) "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.

(17) "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.

(18) "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.

(19) "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.

(20) "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.

(21) "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.

(22) "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.

(23) "WSDOT" means the Washington State Department of Transportation. (Ord. 2852 § 10 (Exh. A), 2011).

22D.030.050 Road policy – General provisions.

(1) 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.

(2) Director's Recommendation, Approval.

(a) In approving or permitting a development, the approving authority shall consider the director's recommendations and act in conformity with this title.

(b) 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.

(c) The director shall only recommend approval of a development if the development is deemed to be concurrent in accordance with MMC 22D.030.070(6).

(3) 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.

(4) 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:

(a) Impact on road system capacity;

(b) Impact on specific level of service deficiencies;

(c) Impact on specific inadequate road condition locations;

(d) Frontage improvements requirements;

(e) Access and transportation system circulation requirements;

(f) Dedication or deeding of rights-of-way requirements;

(g) Impact on state highways, and other cities' and counties' roads;

(h) Transportation demand management measures.

(5) 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.

(6) Level of Service Standards.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(7) Inadequate Pre-Existing Road Conditions.

(a) 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 MMC 22D.030.070 for improving the inadequate road conditions.

(b) 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.

(8) Frontage Improvements. All developments will be required to make frontage improvements in accordance with MMC 12.02A.090.

(9) 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.

(10) 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 12.02A.110, 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.

(11) State Highways, Cities, and Counties.

(a) 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.

(b) 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.

(12) 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:

(a) Traffic studies: scoping, elements, processing;

(b) Level of service determination: methodology, data collection;

(c) Transit compatibility: transit supportive criteria;

(d) Inadequate road conditions: criteria for identification;

(e) Frontage improvements: standards, variables;

(f) Mitigation measures: extent, timing, agreements.

(13) 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 MMC 22D.030.060 and/or specified in the preapplication meeting required by MMC 22G.010.030 are received. Review periods and time limits shall be as established in Chapter 22G.010 MMC in accordance with RCW 36.70A.065 and 36.70A.440 as recodified by ESHB 1724, Chapter 347, Laws of 1995. (Ord. 2852 § 10 (Exh. A), 2011).

22D.030.060 Traffic study.

(1) 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 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. 2852 § 10 (Exh. A), 2011).

22D.030.070 Determination and fulfillment of road system obligations.

(1) Determination of Developer Obligations.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(2) Road System Capacity Requirements.

(a) 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 subsection (3) of this section.

(b) Construction Option – Requirements.

(i) 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.

(ii) 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.

(iii) 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.

(c) Payment Option – Requirements.

(i) 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.

(ii) 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.

(iii) 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.

(3) Traffic Impact Fee.

(a) The proportionate share fee amount shall be calculated in accordance with the formula established in Table I:

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.

(b) 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.

(4) Temporary Enhanced Discount. For a period of three years from the effective date of the ordinance codified in this section, the discount referenced in Step 6 of Table I above (and which is based on data contained in Appendix A, Traffic Impact Fee Methodology, of the city's Transportation Element) shall be adjusted from seven percent to 22 percent. From and after three years of the effective date of the ordinance codified in this section the subject discount shall automatically revert to seven percent without further action of the Marysville city council.

(5) Traffic Impact Fee Exemption.

(a) 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 subsection (3) of this section for development activity which meets the criteria of subsection (5)(c) of this section.

(b) Application for Traffic Impact Fee Exemption. Any developer applying for or receiving a building permit which meets the criteria set forth in subsection (5)(c) of this section may apply to the director of public works or designee for an exemption from the traffic impact fee established pursuant to subsection (3) of this section. 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.

(c) Exemption Criteria. To be eligible for the traffic impact fee exemption established by this section, the applicant shall meet each of the following criteria:

(i) 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.

(ii) 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.

(iii) 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).

(d) Administration of Traffic Impact Fee Exemption.

(i) Upon acceptance of an application for exemption from traffic impact fees pursuant to subsection (5)(b) of this section, the applicant shall pay to the city the full amount of the traffic impact fees required pursuant to subsection (3) of this section. Following receipt of the traffic impact fees the city shall deposit and manage the fees as set forth in subsection (5)(e) 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 (5)(c)(ii) 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.

(ii) In the event the three-year average annual city of Marysville portion sales and use tax revenue criterion of subsection (5)(c)(ii) 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 subsection (3) of this section. In such case, 50 percent of the amount paid to the city pursuant to subsection (5)(d)(i) of this section shall be refunded to the applicant, plus any accrued interest. The remainder of the funds deposited pursuant to subsection (5)(d) of this section shall belong to the city and shall be released to the city.

(iii) In the event the three-year average annual city of Marysville portion sales and use tax revenue criterion of subsection (5)(c)(ii) of this section has not been met, the traffic impact fee required under subsection (3) of this section 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 (5)(c)(ii) 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 (5)(d) of this section plus any accrued interest. The remainder of the funds deposited pursuant to subsection (5)(d) of this section shall belong to the city and shall be released to the city.

(iv) In cases where the applicant has not met either the three-year annual sales and use tax revenue criterion of subsection (5)(c)(ii) of this section or 75 percent thereof, all traffic impact fees paid pursuant to subsection (3) of this section shall belong to the city.

(v) By mutual agreement of the city and the applicant, any refund due under this section may be applied to an obligation or assessment owed by the applicant for city street improvement purposes, including, but not limited to, any obligation or assessment under a local improvement district for streets.

(e) Deposit and Management of Traffic Impact Fees. Traffic impact fees paid by an applicant pursuant to this section and the provisions of subsection (3) of this section 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 (5)(d) 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.

(f) Appeals. Any applicant aggrieved by the determination of the director of public works as to whether the criteria of subsection (5)(c) of this section have been met or the eligibility for an exemption from subsection (3) of this section or the amount of refund to which an applicant is entitled pursuant to subsection (5)(d) of this section may file a written appeal to the city's land use hearing examiner as established by Chapter 22G.060 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 MMC 22G.010.540.

(g) Application of Sales and Use Tax Revenue from Businesses Which Receive an Exemption or Partial Exemption.

(i) 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.

(ii) Special Sales Tax Account. The city shall establish by separate ordinance a special sales tax account for the purposes set forth in subsection (5)(g)(i) of this section.

(6) Level of Service Requirements – Concurrency Determinations.

(a) 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.

(i) 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 re-evaluated for concurrency purposes.

(ii) 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.

(iii) 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.

(iv) 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 (6)(a)(i) of this section.

(b) In determining whether or not to deem a proposed development as concurrent, the department 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.

(i) 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 MMC 22D.030.060.

(c) A concurrency determination made for a proposed development under this section will evaluate the development's impacts on any arterial units in arrears.

(i) 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:

(A) 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.

(B) 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 (6)(e) of this section.

(d) 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.

(e) Any development not deemed concurrent shall have options available to enable the development to be deemed concurrent as follows:

(i) 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 22D.030.050(12), 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 (6)(c) of this section.

(ii) 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.

(iii) 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 22D.030.050(2), and referenced in the concurrency determination, as a condition of approval.

(A) 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.

(B) 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.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

(f) 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.

(7) Inadequate Road Condition Requirements.

(a) 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 subsection (1) of this section, 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.

(b) 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 subsection (6) of this section.

(c) 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.

(d) Construction Option – Requirements.

(i) 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.

(ii) In cases where two or more developers have agreed to fully fund a certain improve-

ment, 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.

(iii) 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.

(8) 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.

(9) Administration of Traffic Impact Fees.

(a) Any traffic impact fees made pursuant to this title shall be subject to the following provisions:

(i) Except as otherwise provided in this section and MMC Title 22, 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 subdivision; 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.

(ii) The traffic impact fees shall be held in a reserve account and shall be expended to fund improvements on the road system.

(iii) An appropriate and reasonable portion of traffic impact fees collected may be used for administration of this title.

(iv) The fee payer may receive a refund of such fees if the city fails to expend or encumber the impact fees within 10 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 10 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.

(v) 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.

(b) 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 the 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.

(c) Deferral of Impact Fees Allowed.[1]

(i) Required payment of impact fees may be deferred to final inspection for single-family residential dwelling or multifamily projects with 25 or fewer units.

(ii) Payment of required impact fees for a commercial building, industrial building, or multifamily development exceeding 25 units may be deferred from the time of building permit issuance in accordance with the following:

(A) Fifty percent of the impact fees shall be paid prior to approved occupancy of the structure; and

(B) The remaining 50 percent of the impact fees shall be paid within 18 months from the date of building occupancy, or when ownership of the property is transferred, whichever is earlier.

(iii) The finance department shall allow an applicant to defer payment of the impact fees when, prior to submission of a building permit application for deferment under subsection (9)(c)(ii) of this section or prior to final inspection for deferment under subsection (9)(c)(i) of this section, the applicant:

(A) Submits a signed and notarized deferred impact fee application and acknowledgement form for the development for which the property owner wishes to defer payment of the impact fees; and

(B) With regard to deferred payment under subsection (9)(c)(ii) of this section, records a lien for impact fees against the property in favor of the city in the total amount of all deferred impact fees for the development. The lien for impact fees shall:

1. Be in a form approved by the city attorney; and

2. Include the legal description, tax account number and address of the property.

(iv) In the event that the impact fees are not paid in accordance with subsection (9)(c)(ii) of this section, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW, except as revised herein. In addition to any unpaid impact fees, the city shall be entitled to interest on the unpaid impact fees at the rate provided for in RCW 19.52.020 and the reasonable attorney fees and costs incurred by the city in the foreclosure process. Notwithstanding the foregoing, prior to commencement of foreclosure, the city shall give not less than 30 days' written notice to the person or entity whose name appears on the assessment rolls of the county assessor as owner of the property via certified mail with return receipt requested and regular mail advising of its intent to commence foreclosure proceedings. If the impact fees are paid in full to the city within the 30-day notice period, no attorney fees, costs and interest will be owed.

(v) In the event that the deferred impact fees are not paid in accordance with this section, and in addition to foreclosure proceedings provided in subsection (9)(c)(iv) of this section, the city may initiate any other action(s) legally available to collect such impact fees.

(vi) Upon receipt of final payment of all deferred impact fees for the development, the department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their expense, will be responsible for recording each lien release.

(vii) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the impact fees.

(viii) The deferred payment options set forth in this section shall automatically terminate three years from the effective date of the ordinance codified in this section without further action of the city council. (Ord. 2986 § 5, 2015; Ord. 2907 § 1, 2012; Ord. 2904 § 2, 2012; Ord. 2858 § 1, 2011; Ord. 2852 § 10 (Exh. A), 2011).

1. Code reviser's note: Section 4 of Ord. 2904 states that there shall be a $200.00 processing fee which shall be paid at the time of application for deferral of impact fees as set forth in MMC 22D.030.070(9)(c).

22D.030.080 Appeals.

Administrative interpretations and administrative approvals made pursuant to this chapter may be appealed to the hearing examiner pursuant to MMC 22G.010.530. (Ord. 2852 § 10 (Exh. A), 2011).

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22D.030.090 Severability and duty.

(1) 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.

(2) 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.

(3) 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. 2852 § 10 (Exh. A), 2011).

Chapter 22D.040

SCHOOL IMPACT FEES AND MITIGATION

Sections:

22D.040.010 General provisions.
22D.040.020 Definitions.
22D.040.030 School district eligibility for impact fees.
22D.040.040 Capital facilities plan requirements and procedures.
22D.040.050 School impact fee.
22D.040.060 Impact fee accounting.
22D.040.070 Adjustments – Appeals – Arbitration.
22D.040.080 Severability and savings.

22D.040.010 General provisions.

(1) Purposes. The purposes of this title are:

(a) To ensure that adequate school facilities are available to serve new growth and development; and

(b) 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.

(2) 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 22G.010.050. All building permit applications accepted by the department prior to the effective date of the ordinance codified in 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 22E.030 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22D.040.020 Definitions.

(1) Words Defined by RCW 82.02.090. Words used in this chapter 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 subsection (2) of this section.

(2) Other Definitions.

(a) "Average assessed value" means the district's average assessed value for each dwelling unit type.

(b) "Boeckh index" means the current construction trade index of construction costs for each school type.

(c) "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."

(d) "Capital facilities plan" means a district's facilities plan adopted by its school board consisting of those elements required by MMC 22D.040.030 and meeting the requirements of the GMA.

(e) "Council" means the Marysville city council.

(f) "County" means Snohomish County.

(g) "Department" means the city of Marysville planning and building department.

(h) "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.

(i) "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.

(j) "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 renovation 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.

(k) "Development approval" means any written authorization from the city which authorizes the commencement of a development activity.

(l) "Director" means the city planner or the city planner's designee.

(m) "District" means a school district whose geographic boundaries include areas within the city of Marysville.

(n) "District property tax levy rate" means the district's current capital property tax rate per $1,000 of assessed value.

(o) "Dwelling unit type" means:

(i) Single-family residences;

(ii) Multifamily one-bedroom apartment or condominium units; and

(iii) Multifamily multiple-bedroom apartment or condominium units.

(p) "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.

(q) "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.

(r) "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.

(s) "Grade span" means a category into which a district groups its grades of students (e.g., elementary, middle or junior high, and high school).

(t) "Growth Management Act/GMA" means the Growth Management Act, Chapter 17, Laws of the State of Washington of 1990, First Executive Session, as now in existence or as hereafter amended.

(u) "Interest rate" means the current interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index.

(v) "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.

(w) "Multifamily unit" means any residential dwelling unit that is not a single-family unit as defined by this chapter.

(x) "Permanent facilities" means school facilities of the district with a fixed foundation.

(y) "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.

(z) "Relocatable facilities cost" means the total cost, based on actual costs incurred by the district, for purchasing and installing portable classrooms.

(aa) "Relocatable facilities student capacity" means the rated capacity for a typical portable classroom used for a specified grade span.

(bb) "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.

(cc) "Single-family unit" means any detached residential dwelling unit designed for occupancy by a single family or household.

(dd) "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.

(ee) "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.

(ff) "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. 2852 § 10 (Exh. A), 2011).

22D.040.030 School district eligibility for impact fees.

(1) 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.

(2) 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.

(3) Updating of District Plans.

(a) 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.

(b) 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. 2852 § 10 (Exh. A), 2011).

22D.040.040 Capital facilities plan requirements and procedures.

(1) 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 pro-

vide sufficient detail to allow computation of school impact fees according to the formula contained in MMC 22D.040.050(1), Table 1.

(2) Department Review and Acceptance. Upon receipt of a district's capital facilities plan (or amendment thereof) the department shall determine the following:

(a) That the analysis contained within the capital facilities plan is consistent with current data developed pursuant to the requirements of the GMA.

(b) That any school impact fee proposed in the district's capital facilities plan has been calculated using the formula contained in MMC 22D.040.050(1), Table 1.

(c) 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.

(3) 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.

(4) 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.

(5) 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. 2852 § 10 (Exh. A), 2011).

22D.040.050 School impact fee.

(1) Fee Required. 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 of this section. The school impact fee calculated in accordance with the formula established in Table 1 of this section shall then be multiplied by 0.50 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 MMC 22D.040.020.

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) x B(3)] ÷ B(1)} x 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)

TABLE 1
Impact Fee Calculation Formula (Continued)

B(1)	=	Facility Design Capacity (see MMC 22D.040.020(2)(r))
A(1)	=	Student Factor (for each dwelling unit type – see MMC 22D.040.020(2))

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) ÷ B(1)] x A(1) = School Construction Cost Element

Where:

C(1)	=	Estimated Facility Construction Cost (see MMC 22D.040.020(2))
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) ÷ E(2)] x A(1) = Relocatable Facilities Cost Element

Where:

E(1)	=	Relocatable Facilities Cost
E(2)	=	Relocatable Facilities Student Capacity (see MMC 22D.040.020(2))
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 22D.040.020(2))
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 22D.040.020(2))
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.

$$\frac{[(1 + F(1))^{10}] - 1}{F(1)(1 + F(1))^{10}} \times F(2) \times F(3) = \text{Tax Credit}$$

TABLE 1
Impact Fee Calculation Formula (Continued)

Where:

F(1)	=	Interest Rate (see MMC 22D.040.020(2))
F(2)	=	District Property Tax Levy Rate (see MMC 22D.040.020(2))
F(3)	=	Average Assessed Value (for each dwelling unit type – see MMC 22D.040.020(2))

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.

(2) 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.

(3) 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.

(4) Impact Fee Limitations.

(a) 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.

(b) School impact fees must be expended or encumbered for a permissible use within 10 years of receipt by the district.

(c) 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.

(d) 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.

(5) Fee Determination.

(a) 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.

(b) Credit amounts and allocation of credits to be applied against the fees shall be determined at the time of development approval in accordance with subsection (6) of this section.

(c) The final determination of a development activity's fee obligation under this chapter shall include any credits for in-kind contributions provided under subsection (6) of this section. Final determinations of the amounts of the fee or credit due may be appealed pursuant to the procedures established in MMC 22D.040.070.

(6) Credit for In-Kind Contributions/Existing Lots.

(a) 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 or 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.

(b) 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.

(c) 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:

(i) Approve the request for credit and adjust the impact fee obligation accordingly; and

(ii) 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 MMC 22D.040.070.

(d) 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.

(7) SEPA Mitigation and Other Review.

(a) 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.

(b) 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 22E.030 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. 2986 § 3, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22D.040.060 Impact fee accounting.

(1) Collection and Transfer of Fees, Fund Authorized and Created.

(a) Except as otherwise provided in this section and MMC Title 22, 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.

(b) 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.

(c) 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.

(d) 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.

(2) Use of Funds.

(a) 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.

(b) 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.

(c) 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 subsection (4) of this section.

(d) 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.

(3) Deferral of School Impact Fee Payments Allowed.[1]

(a) Required school impact fee payments may be deferred to final inspection for single-family residential dwelling or multifamily projects with 25 or fewer units.

(b) Payment of required school impact fees for a multifamily development exceeding 25 units may be deferred from the time of building permit issuance in accordance with the following:

(i) Fifty percent of the school impact fees shall be paid prior to approved occupancy of the residential structure; and

(ii) The remaining 50 percent of the school impact fees shall be paid within 18 months from the date of building occupancy, or when ownership of the property is transferred, whichever is earlier.

(c) The finance department shall allow an applicant to defer payment of the impact fees when, prior to submission of a building permit application for deferment under subsection (3)(b) of this section or prior to final inspection for deferment under subsection (3)(a) of this section, the applicant:

(i) Submits a signed and notarized deferred impact fee application and acknowledgement form for the development for which the property owner wishes to defer payment of the impact fees; and

(ii) With regard to deferred payment under subsection (3)(b) of this section, records a lien for impact fees against the property in favor of the city in the total amount of all deferred impact fees for the development. The lien for impact fees shall:

(A) Be in a form approved by the city attorney; and

(B) Include the legal description, tax account number and address of the property.

(d) Upon receipt of final payment of all deferred school impact fees for the development, the department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their expense, will be responsible for recording each lien release.

(e) In the event that the impact fees are not paid in accordance with subsection (3)(b) of this section, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW, except as revised herein. In addition to any unpaid impact fees, the city shall be entitled to interest on the unpaid impact fees at the rate provided for in RCW 19.52.020 and the reasonable attorney fees and costs incurred by the city in the foreclosure process. Notwithstanding the foregoing, prior to commencement of foreclosure, the city shall give not less than 30 days' written notice to the person or entity whose name appears on the assessment rolls of the county assessor as owner of the property via certified mail with return receipt requested and regular mail advising of its intent to commence foreclosure proceedings. If the impact fees are paid in full to the city within the 30-day notice period, no attorney fees, costs and interest will be owed.

(f) In the event that the deferred impact fees are not paid in accordance with this section, and in addition to foreclosure proceedings provided in subsection (3)(e) of this section, the city may initiate any other action(s) legally available to collect such school impact fees.

(g) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the impact fees.

(h) The deferred payment options set forth in this section shall automatically terminate three years from the effective date of the ordinance codified in this section without further action of the city council.

(4) Refunds.

(a) School impact fees not spent or encumbered within 10 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 subsection (2)(d) of this section, 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.

(b) 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.

(5) 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 subsection (4) of this section. 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 22G.030 MMC and shall be an amount that approximates, as nearly as possible, the actual administrative costs of administering the school impact fee program. (Ord. 2986 § 4, 2015; Ord. 2904 § 3, 2012; Ord. 2852 § 10 (Exh. A), 2011).

1. Code reviser's note: Section 4 of Ord. 2904 states that there shall be a $200.00 processing fee which shall be paid at the time of application for deferral of impact fees as set forth in MMC 22D.040.060(3).

22D.040.070 Adjustments – Appeals – Arbitration.

(1) Administrative Adjustment of Fee Amount.

(a) 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:

(i) It can be demonstrated that the school impact fee assessment was incorrectly calculated;

(ii) Unusual circumstances of the development activity demonstrate that application of the school impact fee to the development would be unfair or unjust;

(iii) A credit for in-kind contributions by the developer, as provided for under MMC 22D.040.050(6), is warranted; or

(iv) Any other credit specified in RCW 82.02.060(1)(b) may be warranted.

(b) To avoid delay pending resolution of the appeal, school impact fees may be paid under protest in order to obtain a development approval.

(c) Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to subsection (2) of this section.

(2) Appeals of Decisions – Procedure.

(a) 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 22G.010 MMC, Article VIII, Appeals. 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 22G.010 MMC, Article VIII, Appeals.

(b) 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 subsection (1) of this section. 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.

(c) The decision of the hearing examiner pursuant to subsection (2)(a) of this section shall be final and conclusive with an optional right of reconsideration as provided in MMC 22G.010.190 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.

(3) 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. 2852 § 10 (Exh. A), 2011).

22D.040.080 Severability and savings.

(1) Savings Clause – Effective Date – Emergency.

(a) 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.

(b) 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, of 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.

(c) 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. 2852 § 10 (Exh. A), 2011).

Chapter 22D.050

CLEARING, GRADING, FILLING, AND EROSION CONTROL

Sections:

22D.050.010 Purpose.
22D.050.020 Clearing and grading permit.
22D.050.030 Minimum standards.
22D.050.040 Temporary erosion and sediment control plan.
22D.050.050 Temporary restrictions on clearing and grading.
22D.050.060 Maintenance and security.
22D.050.070 Inspections.
22D.050.080 Completion of the work.
22D.050.090 Construction specifications.

22D.050.010 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. 2852 § 10 (Exh. A), 2011).

22D.050.020 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, routine 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 14.07.005 and the permit fee amount will be based on MMC 16.04.045, Sections 108 and 108.2 amended – IBC and IRC Fee Table 1-A and Table A-J-A adopted by reference.

(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, storm water 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

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Washington Standard Specifications for Road, Bridge and Municipal Construction.

(5) Construction within environmentally sensitive areas shall be in compliance with Chapter 22E.010 MMC and shall be subject to the review of the planning director. (Ord. 2852 § 10 (Exh. A), 2011).

22D.050.030 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.

(g) The duff layer and native topsoils shall be retained in an undisturbed state to the maximum extent practicable in areas not intended for building pads, access ways or other impervious surfaces.

(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 walls are engineered and installed.

(d) Steeper cuts/fills may be permitted if supported by an approved soils/geological report; provided, that for residential development, the proposed steeper cuts/fills must comply with the design standards outlined in subsection (4) of this section.

(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) Design Criteria. The following are the minimum design standards for cutting and filling slopes for residential development; provided, that these provisions may be waived by the city engineer for grading operations of a minor nature:

(a) The aesthetic and spatial impact of altered grades on adjacent properties both public and private shall be considered in site design.

(b) Sites shall be developed to promote continuity and to minimize abrupt grade changes between sites.

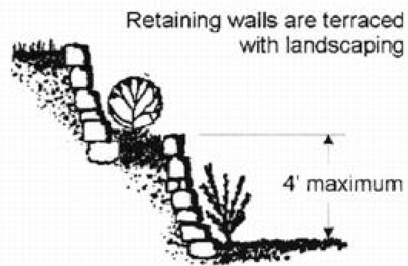
(c) Grading shall be the minimum necessary to make installation and function of infrastructure feasible and economic for future service extensions to adjacent properties.

(d) The developer shall consider the natural topography and the proposed layout of the subdivision when siting roads in order to anticipate grading needs and minimize extensive grading in order to build.

(e) If retaining walls taller than four feet are used, as measured from the average grade, and are visible from the street or adjacent property, they shall be terraced so that no individual segment is taller than four feet; provided, that where adjacent properties are not adversely affected or the retaining wall is minor in nature, the community development director may reduce or waive these standards. Terraced walls shall be separated by a

landscaping bed at least two feet in width. Alternative landscaping treatments will be considered, provided they reduce the bulk and scale of the retaining wall and enhance the streetscape or transition between properties.

Figure 1. Tall retaining walls must be terraced with landscaping as depicted below.



(5) Sensitive Areas. No land-disturbing activity shall be permitted in a regulated sensitive area, except as otherwise allowed by applicable laws and permits.

(6) Clean-Up. Persons and/or firms engaged in clearing, grading, 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.

(7) 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. 2852 § 10 (Exh. A), 2011).

22D.050.040 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. 2852 § 10 (Exh. A), 2011).

22D.050.050 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 are prohibited during the rainy season, building construction can nonetheless proceed as long as necessary clearing and grading are 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 are 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 are 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 are 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 are 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. 2852 § 10 (Exh. A), 2011).

22D.050.060 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 for maintenance in accordance with the provisions of Chapter 22G.040 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22D.050.070 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 storm water 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. 2852 § 10 (Exh. A), 2011).

22D.050.080 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. 2852 § 10 (Exh. A), 2011).

22D.050.090 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. 2852 § 10 (Exh. A), 2011).

Title 22E

ENVIRONMENTAL STANDARDS

Chapters:

22E.010 Critical Areas Management
22E.020 Floodplain Management
22E.030 State Environmental Policy Act (SEPA)
22E.040 Downtown Planned Actions
22E.050 Shoreline Management Master Program

Chapter 22E.010

CRITICAL AREAS MANAGEMENT

Sections:

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22E.010.010 General purpose and intent.
22E.010.020 General applicability of these regulations.
22E.010.030 General relationship of regulation of one type of critical area protection to other regulations.
22E.010.040 Best available science.

Article II. Wetlands

22E.010.050 Applicability to wetlands.
22E.010.060 Wetland rating and classification.
22E.010.070 Regulated activities in wetlands.
22E.010.080 Exemptions to wetland regulations.
22E.010.090 Wetland inventory maps.
22E.010.100 Wetland buffer areas.
22E.010.110 Wetland alteration and mitigation.
22E.010.120 Wetland mitigation standards and criteria.
22E.010.130 Wetland mitigation banks.
22E.010.140 Wetland mitigation plan requirements.
22E.010.150 Performance standards for wetland mitigation planning.
22E.010.160 Wetland monitoring program and contingency plan.

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22E.010.190 Exemptions from fish and wildlife regulations.
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22E.010.210 Classification of fish and wildlife habitat areas.
22E.010.220 Fish and wildlife habitat buffer areas.
22E.010.230 Fish and wildlife habitat alteration and mitigation.
22E.010.240 Fish and wildlife mitigation standards, criteria and plan requirements.
22E.010.250 Fish and wildlife habitat performance standards and incentives.
22E.010.260 Fish and wildlife habitat monitoring program and contingency plan.

Article IV. Geologic Hazard Areas

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22E.010.280 Geologic hazard inventory map.
22E.010.290 Alteration of geologic hazard areas and development limitations.
22E.010.300 Setbacks from geologic hazards.
22E.010.310 Geologic hazard performance standards.

Article V. General Information

22E.010.320 General exemptions.
22E.010.330 Permit process and application requirements.
22E.010.340 Selection of qualified scientific professional and city review of report.
22E.010.350 Land divisions.
22E.010.360 On-site density transfer for critical areas.
22E.010.370 Fencing and signage requirements.
22E.010.380 Building setbacks.
22E.010.390 General procedural provisions.
22E.010.400 Penalties and enforcement.
22E.010.410 General savings provisions – Reasonable use determination.
22E.010.420 No special duty created.

Article I. General Introduction

22E.010.010 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 storm water and flood water; recharging ground water; 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; pro-

viding 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. 2852 § 10 (Exh. A), 2011).

22E.010.020 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 this chapter. All actions and developments shall be designed and constructed in accordance with the priority sequencing outlined in MMC 22E.010.110 and 22E.010.230 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 22E.010.410.

(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. 2852 § 10 (Exh. A), 2011).

22E.010.030 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. 2852 § 10 (Exh. A), 2011).

22E.010.040 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 a 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. 2852 § 10 (Exh. A), 2011).

Article II. Wetlands

22E.010.050 Applicability to wetlands.

(1) See MMC 22E.010.020 for general applicability.

(2) Nonproject actions such as rezones shall be required to perform a wetland determination as defined by these regulations. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.060 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. 2852 § 10 (Exh. A), 2011).

22E.010.070 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. 2852 § 10 (Exh. A), 2011).

22E.010.080 Exemptions to wetland regulations.

(1) See MMC 22E.010.320 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, storm water 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 22E.030 MMC.

(3) Notwithstanding the exemption provided by MMC 22E.010.320 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. 2852 § 10 (Exh. A), 2011).

22E.010.090 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 22A.020 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. 2852 § 10 (Exh. A), 2011).

22E.010.100 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 22E.010.080, subsections (7) and (8) of this section, and MMC 22E.010.320, 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 22A.020 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 22E.010.160, 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 8C." Buffer Alterative 3 establishes buffer widths based on wetland category, intensity of impacts, and wetland functions or special characteristics.

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, storm water 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 22E.010.150 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 22E.010.040; 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 22E.010.060, and mitigation is provided based on MMC 22E.010.150, 22E.010.370, and Table 2 of this section, 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
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 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 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 22E.010.170(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) Storm water management facilities, such as biofiltration swales and dispersion facilities, 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 or on the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated beneficial uses.

(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 No. 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.

(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 22E.010.040, shall be taken into consideration in the granting of a buffer width variance. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.110 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 22E.010.120, and 22E.010.140 through 22E.010.160; 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 22E.010.140 through 22E.010.160; and

(ii) Where enhancement is proposed, replacement ratios comply with the requirements of MMC 22E.010.120(3). (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.120 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 22E.010.110(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:

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 results 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. 2852 § 10 (Exh. A), 2011).

22E.010.130 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. 2852 § 10 (Exh. A), 2011).

22E.010.140 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 22E.010.120:

(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 imported 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 22E.010.160 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 22E.010.160:

(i) Specify procedures for monitoring and site maintenance; and

(ii) Submit monitoring reports to the community development department as outlined in MMC 22E.010.160(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 22E.010.160(2). (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.150 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 22E.010.100;

(k) The planting plan must be approved by the city's community development 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 runoff 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, that may take place on the site. Permanent fencing is required pursuant to MMC 22E.010.370;

(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 six and one-half 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 a 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. 2852 § 10 (Exh. A), 2011).

22E.010.160 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. Security for performance in accordance with Chapter 22G.040 MMC is required for performance, monitoring and maintenance in accordance with the terms of the mitigation agreement. The security for performance shall be for a period of five years, but the community development department may agree to reduce the security in phases in proportion to work successfully completed over the duration of the security.

(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, storm water 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 22E.010.150;

(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. 2852 § 10 (Exh. A), 2011).

Article III. Fish and Wildlife Habitat Areas

22E.010.170 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 Chapter 22A.020 MMC. 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 State 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 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 Chapter 22A.020 MMC.

(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) through (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.

(f) 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.

(g) 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.

(h) 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.

(i) Approved nominations will be subject to the provisions of this title. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.180 Regulated activities in habitats.

The following activities within a habitat and its associated buffer as set forth in MMC 22E.010.220, 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. 2852 § 10 (Exh. A), 2011).

22E.010.190 Exemptions from fish and wildlife regulations.

(1) See MMC 22E.010.320 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 22C.100 MMC, Nonconforming Situations.

(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. 2852 § 10 (Exh. A), 2011).

22E.010.200 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 State 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. 2852 § 10 (Exh. A), 2011).

22E.010.210 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 State Department of Fish and Wildlife, the Department of Ecology, affected tribes, or others;

(iv) The Washington State 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. 2852 § 10 (Exh. A), 2011).

22E.010.220 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 22E.010.170 and 22E.010.210. 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 22E.010.260. 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, storm water 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 (1) 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 within the buffer depending on the sensitivity of the habitat involved, provided they are consistent with the purpose and function of the habitat buffer and do not detract from its integrity. 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 22E.010.240 are met.

(9) Storm water management facilities, such as biofiltration swales and dispersion facilities, 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. Storm water 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 (2) 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 22E.010.040, shall be taken into consider-

ation in the granting of a buffer width variance. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.230 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 22E.010.190, granted a variance under MMC 22E.010.220, or meeting the criteria for a reasonable use exception in MMC 22E.010.410 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 22E.010.260.

(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 22E.010.250.

(3) Alteration of habitats 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. 2852 § 10 (Exh. A), 2011).

22E.010.240 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 Chapter 22A.020 MMC, 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 Chapter 22A.020 MMC.

(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. 2852 § 10 (Exh. A), 2011).

22E.010.250 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 22E.010.330.

(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 0.25 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. 2852 § 10 (Exh. A), 2011).

22E.010.260 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. Security for performance in accordance with Chapter 22G.040 MMC is required for performance, monitoring and maintenance in accordance with the terms of the contingency plan. The security for performance shall be for a period of five years, but the community development director may agree to reduce the security in phases in proportion to work successfully completed over the duration of the security.

(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, storm water 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 over 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 22E.010.150;

(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. 2852 § 10 (Exh. A), 2011).

Article IV. Geologic Hazard Areas

22E.010.270 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. 2852 § 10 (Exh. A), 2011).

22E.010.280 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 city of Marysville's geologic hazard areas maps and criteria or standards of this chapter, the criteria and standards resulting from the field investigation shall prevail. (Ord. 2989 § 1, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22E.010.290 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, is 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 security for performance or security for maintenance in accordance with the standards of Chapter 22G.040 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.300 Setbacks from geologic hazards.

(1) A setback shall be established per a site specific geological hazard report and/or Chapter 18 of the International Building Code (IBC), or as amended 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 be approved by the community development director and/or city engineer, or his or her representative, and 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. Established setbacks shall be measured from the horizontal plane from a vertical line established at the edge of the geologically hazardous area limits (both from top and toe of slope). 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 for moderate to high landslide areas and moderate to high erosion areas shall be measured as recommended by the geotechnical report for the subject property, or as established in Chapter 18 of the International Building Code (IBC), or as amended, as follows:

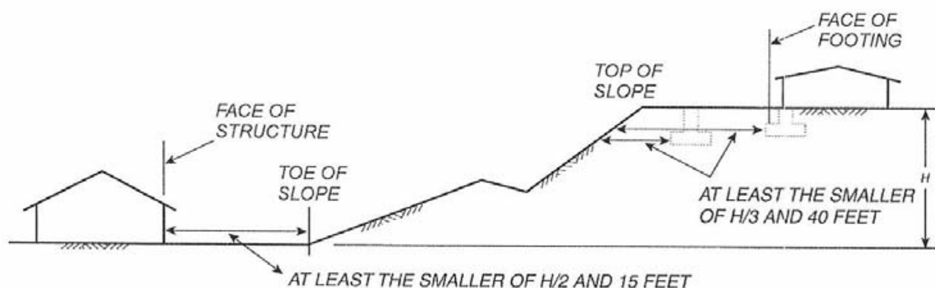

FIGURE 1808.7.1
FOUNDATION CLEARANCES FROM SLOPES

Formula:

1. Top of slope: Height of slope (H) divided by 3 plus 40 feet;
2. Toe of slope: Height of slope (H) divided by 2 plus 15 feet.

In the event that a specific setback buffer is not recommended in the geological studies, the setback buffer shall be based upon the standards set forth in Chapter 18 of the International Building Code (IBC), or as amended or as otherwise approved by the director.

(b) If the geological study recommends setback buffers that are less than the standard buffers that would result from application of Chapter 18 IBC, the specific rationale and basis for the reduced buffers shall be clearly articulated in the geological assessment.

(c) The city may require larger setback buffer widths under any of the following circumstances:

(i) The land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts.

(ii) The area has a severe risk of slope failure or down slope stormwater drainage impacts.

(iii) The increased buffer is necessary to protect public health and safety and welfare based upon findings and recommendations of the geotechnical study. (Ord. 2989 § 2, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22E.010.310 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) Unless otherwise permitted as part of an approved alteration, the setback buffers required by this subsection shall be maintained in native vegetation to provide additional soil stability and erosion control. If the buffer area has been cleared, it shall be planted with native vegetation in conjunction with any proposed development activity;

(f) Use of retaining walls that allow maintenance of existing natural slope areas is preferred over graded slopes;

(g) Setbacks 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;

(h) Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;

(i) A master drainage plan should be prepared for large projects;

(j) Undevelopable geologic hazard areas larger than one-half acre should be placed in a separate tract;

(k) A monitoring program should be prepared for construction activities permitted in geologic hazard areas;

(l) 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;

(m) The proposal will not adversely impact other critical areas; and

(n) 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. 2989 § 3, 2015; Ord. 2852 § 10 (Exh. A), 2011).

Article V. General Information

22E.010.320 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 Chapter 22A.020 MMC, 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 No. 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. 2852 § 10 (Exh. A), 2011).

22E.010.330 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 describing:

(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.

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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 22E.010.150;

(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 be 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 describing:

(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 International 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. 2852 § 10 (Exh. A), 2011).

22E.010.340 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 Chapter 22A.020 MMC, Definitions. 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. 2852 § 10 (Exh. A), 2011).

22E.010.350 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 its 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. 2852 § 10 (Exh. A), 2011).

22E.010.360 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 non-critical 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 area regulated by this code.

(3) An on-site density transfer shall meet the requirements and follow the procedures of Chapter 22G.090 MMC, Subdivisions and Short Subdivisions. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.370 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. 2852 § 10 (Exh. A), 2011).

22E.010.380 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. 2852 § 10 (Exh. A), 2011).

22E.010.390 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 22G.060 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 22G.060 MMC, relating to the hearing examiner. (Ord. 2852 § 10 (Exh. A), 2011).

22E.010.400 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 punishable as set forth in MMC 4.02.040(3)(g). 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 or 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 of 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. 2951 § 13, 2014; Ord. 2852 § 10 (Exh. A), 2011).

22E.010.410 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 subject 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. 2852 § 10 (Exh. A), 2011).

22E.010.420 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 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. 2852 § 10 (Exh. A), 2011).

Chapter 22E.020

FLOODPLAIN MANAGEMENT

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Article I. Purpose

22E.020.010 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. 2852 § 10 (Exh. A), 2011).

Article II. General Provisions

22E.020.020 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city of Marysville. (Ord. 2852 § 10 (Exh. A), 2011).

22E.020.030 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 Snohomish County and Incorporated Areas” dated September 16, 2005, 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 the Marysville Community Development Department, 80 Columbia Avenue, Marysville, Washington. The best available information for flood hazard area identification as outlined in MMC 22E.020.100(2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under MMC 22E.020.100(2). (Ord. 2955, 2014; Ord. 2852 § 10 (Exh. A), 2011).

22E.020.040 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. 2852 § 10 (Exh. A), 2011).

22E.020.050 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. 2852 § 10 (Exh. A), 2011).

22E.020.060 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. 2852 § 10 (Exh. A), 2011).

22E.020.070 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 hazard 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. 2852 § 10 (Exh. A), 2011).

Article III. Administration

22E.020.080 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 22E.020.030. The permit shall be for all structures, including manufactured homes, as set forth in Chapter 22A.020 MMC, Definitions, and for all other development, including fill and other activities, also as set forth in Chapter 22A.020 MMC, 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 22E.020.150; and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development. (Ord. 2852 § 10 (Exh. A), 2011).

22E.020.090 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. 2852 § 10 (Exh. A), 2011).

22E.020.100 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 govern-

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mental 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 22E.020.030, 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 22E.020.150, Specific standards, MMC 22E.020.170, Manufactured homes, MMC 22E.020.180, Recreational vehicles, and MMC 22E.020.190, 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 22E.020.080(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 hazard (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 22E.020.110. (Ord. 2852 § 10 (Exh. A), 2011).

Article IV. Variance Procedure

22E.020.110 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, includ-

ing 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. 2852 § 10 (Exh. A), 2011).

22E.020.120 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 22E.020.110(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, or 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 22E.020.110(5), and otherwise complies with MMC 22E.020.130(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. 2852 § 10 (Exh. A), 2011).

Article V. Provisions for Flood Hazard Protection

22E.020.130 General standards.

In all areas of special flood hazard, 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 ties 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 flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

(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 contains at least 50 lots or five acres (whichever is less). (Ord. 2852 § 10 (Exh. A), 2011).

22E.020.140 Review of building permits.

Where elevation data is not available either through the flood insurance study or from another authoritative source (MMC 22E.020.100(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. 2852 § 10 (Exh. A), 2011).

22E.020.150 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in MMC 22E.020.030, Basis for establishing the areas of special flood hazard, or MMC 22E.020.100(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.

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.

(2) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot 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 above 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 22E.020.100(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 flood waters. 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 flood waters. (Ord. 2955, 2014; Ord. 2852 § 10 (Exh. A), 2011).

22E.020.160 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. 2852 § 10 (Exh. A), 2011).

22E.020.170 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 shall 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 is securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement. (Ord. 2852 § 10 (Exh. A), 2011).

22E.020.180 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 22E.020.170 and the elevation and anchoring requirements for manufactured homes. (Ord. 2852 § 10 (Exh. A), 2011).

22E.020.190 Floodways.

Located within areas of special flood hazard established in MMC 22E.020.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters 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, of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22E.020.200 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 flood waters. 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. 2852 § 10 (Exh. A), 2011).

22E.020.210 Severability.

If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this chapter. (Ord. 2955, 2014).

Chapter 22E.030

STATE ENVIRONMENTAL POLICY ACT (SEPA)

Sections:

22E.030.010 Purpose.
22E.030.020 Scope.
22E.030.030 Policy.
22E.030.040 Definitions.
22E.030.050 Forms.
22E.030.060 Lead agency.
22E.030.070 Responsible official.
22E.030.080 Purpose and general requirements.
22E.030.090 Categorical exemptions, threshold determinations, and enforcement of mitigating measures.
22E.030.100 Planned actions.
22E.030.110 Environmental impact statements and other environmental documents.
22E.030.120 Comments and public notice.
22E.030.130 Use of existing environmental documents.
22E.030.140 Substantive authority.
22E.030.150 SEPA/GMA integration.
22E.030.160 Ongoing actions.
22E.030.170 Responsibility as consulted agency.
22E.030.180 Appeals.

22E.030.010 Purpose.

The purposes of these procedures are:

(1) To encourage productive and enjoyable harmony between people and their environment;

(2) To promote efforts that will prevent or eliminate damage to the environment and biosphere;

(3) To stimulate the health and welfare of people;

(4) To enrich the understanding of ecological systems and natural resources that are important to the city of Marysville, the state of Washington, and the nation;

(5) To establish procedures to implement the provisions of Chapter 43.21C RCW, the State Environmental Policy Act, and Chapter 197-11 WAC, SEPA Rules;

(6) To provide environmental information to city decision-makers;

(7) To create a process that is efficient and effective;

(8) To promote certainty with respect to the requirements of SEPA and to integrate SEPA procedures with decision-making. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.020 Scope.

The city of Marysville hereby establishes these procedures to implement the State Environmental Policy Act, herein referred to as "SEPA," Chapter 43.21C RCW, consistent with those rules under Chapter 197-11 WAC. The procedures are promulgated under WAC 197-11-020(1), which states: "Each agency must have its own SEPA procedures consistent with" Chapter 197-11 WAC and Chapter 43.21C RCW. Consistent with WAC 197-11-020(3), these provisions, Chapter 197-11 WAC, and Chapter 43.21C RCW must be read together as a whole to comply with the spirit and letter of the law. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.030 Policy.

The city of Marysville adopts WAC 197-11-030, as now existing or hereinafter amended, by reference, subject to the following:

(1) Under WAC 197-11-030(1) and (2), the terms "agency" and "agencies" shall include the city of Marysville and its respective departments.

(2) Under WAC 197-11-030(2)(a), the text is revised to:

> Interpret and administer the policies, regulations, and laws of the State of Washington and applicable ordinances and resolutions of the City of Marysville in accordance with the policies set forth in RCW 43.21C and WAC 197-11.

(Ord. 2852 § 10 (Exh. A), 2011).

22E.030.040 Definitions.

Terms defined under Chapter 22A.020 MMC shall apply to this chapter, subject to the following:

(1) Terms Undefined by Chapter 22A.020 MMC. Where Chapter 22A.020 MMC does not define terms, the city of Marysville adopts those definitions under WAC 197-11-040, 197-11-220, and 197-11-700 through 197-11-799, as existing and as hereafter amended.

(2) Resolving Conflicts Between Chapter 22A.020 MMC and SEPA Definitions. Where a conflict exists between those terms under Chapter 22A.020 MMC and WAC 197-11-040 and 197-11-700 through 197-11-799, the more specific definition that meets the minimum standards and spirit of Chapter 197-11 WAC shall apply. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.050 Forms.

The city of Marysville adopts the following forms and sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

WAC
197-11-960 Environment checklist
197-11-965 Adoption notice
197-11-970 Determination of nonsignificance (DNS)
197-11-980 Determination of significance and scoping notice (DS)
197-11-985 Notice of assumption of lead agency status
197-11-990 Notice of action
(Ord. 2852 § 10 (Exh. A), 2011).

22E.030.060 Lead agency.

The city of Marysville adopts the following sections of Chapter 197-11 WAC, as now existing or hereinafter amended, by reference:

(1) WAC 197-11-050;

(2) WAC 197-11-922 through 197-11-948. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.070 Responsible official.

For those proposals for which the city is a lead agency, the responsible official shall be the city of Marysville community development director. For all proposals for which the city is a lead agency, the community development director shall make the threshold determination, supervise scoping and preparation of any required EIS and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that have been adopted by reference. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.080 Purpose and general requirements.

The city of Marysville adopts WAC 197-11-055 through 197-11-100, as now existing or hereinafter amended, by reference, subject to the following:

(1) Analyzing Similar Actions in a Single Document. The city adopts the optional provision of WAC 197-11-060(3)(c).

(2) Time Guidelines. Under WAC 197-11-055(2)(b), the responsible official will make a threshold determination within 90 days of determining that a completed application has been submitted, consistent with WAC 197-11-055(2)(d), subject to:

(a) The calculation of the number of days in subsection (2)(b) of this section shall not include those days between the mailing of any request for additional information and resubmittal.

(b) The responsible official shall not make a threshold determination when there is not adequate information to make a threshold determination within 90 days. When there is not adequate information to make a determination at the end of 90 days, the responsible official shall notify the applicant in writing regarding the information required to make a threshold determination.

(3) Content of SEPA Checklist – Responsibility. The applicant shall prepare the initial environmental checklist, unless the responsible official specifically elects to prepare the checklist. The responsible official shall make a reasonable effort to verify the information in the checklist and supporting documentation and shall have the authority to determine the final content of the checklist.

(4) Additional Information for SEPA Checklist – Timelines. The responsible official may set reasonable deadlines for the submittal of information, studies, or documents that are necessary for, or subsequent to, threshold determinations. Unless an extension is requested in writing and approved, failure to meet such deadlines shall cause the application to be deemed withdrawn. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.090 Categorical exemptions, threshold determinations, and enforcement of mitigating measures.

The city of Marysville adopts WAC 197-11-300 through 197-11-390, 197-11-800 through 197-11-890, and 197-11-908 as now existing or hereinafter amended, by reference, subject to the following:

(1) Establishment of Flexible Thresholds for Categorically Exempt Actions. The following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(d):

(a) The construction or location of any single-family residential structures of less than or equal to 30 dwelling units;

(b) The construction or location of any multifamily residential structures of less than or equal to 60 dwelling units;

(c) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than or equal to 40,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

(d) The construction of an office, school, commercial recreational, service or storage building with less than or equal to 30,000 square feet of gross floor area, and with associated parking facilities and/or independent parking facilities designed for less than or equal to 90 automobiles;

(e) Any landfill or excavation of less than or equal to 1,000 cubic yards throughout the total life-

time of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(2) The exemptions in this subsection apply except when the project:

(a) Is undertaken wholly or partly on lands covered by water and this remains true whether lands covered by water are mapped;

(b) Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;

(c) Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800(7) or (8); or

(d) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(e) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of the director/agency with jurisdiction may be subject to SEPA.

(3) Categorical Exemptions without Flexible Thresholds. The following proposed actions that do not have flexible thresholds are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305:

(a) Actions listed in WAC 197-11-800(2) through (26).

(4) Environmentally Critical Areas. The Marysville shoreline environments map and the critical areas maps adopted pursuant to this title designate the location of environmentally sensitive areas within the city and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for the area are (1), (2)(d), (2)(e), (6)(a) and (24)(a) through (g). Unidentified exemptions shall continue to apply within environmentally sensitive areas of the city.

(a) Lands Covered by Water. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

(b) Treatment. The city shall treat proposals located wholly or partially within an environmentally critical area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The city shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally critical area.

(5) Responsibility for Determination of Categorical Exempt Status. The determination of whether a proposal is categorically exempt shall be made by the responsible official.

(6) Mitigation Measures. Modifications to a SEPA checklist or other environmental documentation that result in substantive mitigating measures shall follow one of the following processes:

(a) The responsible official may notify the applicant of the requested modifications to the proposal and identify the concerns regarding unmitigated impacts. The applicant may elect to revise or modify the environmental checklist, application, or supporting documentation. The modifications may include different mitigation measures than those requested by the responsible official; however, acceptance of the proposed measures is subject to subsequent review and approval by the responsible official.

(b) The responsible official may make a mitigated determination of nonsignificance (MDNS), identifying mitigating measures. The MDNS may be appealed by the applicant pursuant to MMC 22E.030.180.

(c) The responsible official may identify mitigating measures in a letter and mail that letter to the applicant. In writing, the applicant may acknowledge acceptance of these measures as mitigating conditions. The acknowledgement shall be incorporated into the application packet as supporting environmental documentation or as an addendum to the environmental checklist.

(7) Enforcing Mitigation Measures. Pursuant to WAC 197-11-350(7), the city hereby adopts the following procedures for the enforcement of mitigation measures:

(a) Incorporation of Representations Made by Applicant into MDNS or DNS and Approval. Representations made in the environmental checklist and supporting documentation shall be considered as the foundation of any decision or recommendation of approval of the action. As such, the responsible official relies on this documentation in making a decision on a proposal. Unless specifically revised by the responsible official or applicant, those statements, representations, and mitigating measures contained in the environmental checklist, application, and supporting documentation shall be considered material conditions of any approval. Mitigating measures shall only be included on a DNS under the following circumstances:

(i) When the UDC does not provide adequate regulations to mitigate for an identified

impact, and when any one of the following circumstances or combination of circumstances exists:

(A) When such conditions are not specifically written in the environmental checklist, application, or supporting information; or

(B) When the responsible official determines that the proposed conditions or representations contained within that information do not adequately address impacts from a proposal.

(b) Modifications to a Proposal – Responsible Official May Withdraw Threshold Determination. If, at any time, the proposal or proposed mitigation measures are substantially changed, or if proposed mitigation measures are withdrawn, then the responsible official shall review the threshold determination and, if necessary, may withdraw the threshold determination and issue a revised determination, including a determination of significance (DS), as deemed appropriate.

(c) Enforcement of Mitigation Measures. Mitigation measures that are identified in an environmental checklist, development application, supporting documentation, an EIS or an MDNS shall be considered material conditions of the permit or approval that is issued by the reviewing department. As such, failure to comply with these measures may be enforceable through the enforcement provisions that regulate the proposal. (Ord. 2987 § 1, 2015; Ord. 2939 § 1, 2013; Ord. 2852 § 10 (Exh. A), 2011).

22E.030.100 Planned actions.

The city of Marysville adopts WAC 197-11-164 through 197-11-172, as now existing or hereinafter amended, by reference. Planned actions shall be adopted by ordinance or resolution following the process established under MMC Title 22G. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.110 Environmental impact statements and other environmental documents.

The city of Marysville adopts WAC 197-11-400 through 197-11-460 and 197-11-600 through 197-11-640, as now existing or hereinafter amended, by reference, subject to the following:

(1) Pursuant to WAC 197-11-408(2)(a), all comments on a DS and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

(2) Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the responsible official shall be responsible for preparation and content of an EIS and other environmental documents. The responsible official shall contract with consultants, as necessary, for the preparation of environmental documents and EISs. The responsible official may consider the opinion of the applicant regarding the qualifications of the consultant, but the responsible official shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.

(3) Consultants or subconsultants contracted by the city to prepare environmental documents for a private development proposal:

(a) Shall not act as agents for the applicant in preparation or acquisition of associated underlying permits or actions;

(b) Shall not have a financial interest in the proposal for which the environmental documents are being prepared; and

(c) Shall not perform any work nor provide any services for the applicant in connection with or related to the proposal. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.120 Comments and public notice.

The city of Marysville adopts WAC 197-11-500 through 197-11-570, as now existing or hereinafter amended, by reference, subject to the following:

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(1) Official comments shall be submitted in writing to the contact person on the threshold determination. E-mail comments that are e-mailed to the contact person on the threshold determination may be accepted as official comments.

(2) If required, public notice shall comply with the requirements for the underlying permit as specified in Chapter 22G.010 MMC, Article II, Public Notice Requirements.

(3) The responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.130 Use of existing environmental documents.

The city of Marysville adopts WAC 197-11-600 through 197-11-640, as now existing or hereinafter amended, by reference. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.140 Substantive authority.

(1) The city of Marysville adopts WAC 197-11-650 through 197-11-660, 197-11-900 through 197-11-906, and 197-11-158, as now existing or hereinafter amended, by reference.

(2) For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules, regulations, and all amendments thereto are designated as potential bases for the exercise of the city's substantive authority under SEPA, subject to the provisions of RCW 43.21C.240:

(a) Chapter 43.21C RCW, State Environmental Policy Act;

(b) Marysville comprehensive plan;

(c) Six-year transportation improvement program;

(d) Chapter 6.76 MMC, Noise Regulations;

(e) MMC Title 7, Health and Sanitation;

(f) MMC Title 9, Fire;

(g) MMC Title 11, Traffic;

(h) MMC Title 12, Streets and Sidewalks;

(i) MMC Title 14, Water and Sewers;

(j) MMC Title 16, Building;

(k) MMC Title 22, Unified Development Code;

(l) All transportation improvement programs adopted by the city council pursuant to Chapter 39.92 RCW;

(m) All capital facilities projects contained within the Marysville comprehensive plan;

(n) Interlocal agreement between Snohomish County and the city of Marysville on reciprocal mitigation of transportation impacts;

(o) Interlocal agreement between the city of Marysville and Snohomish County concerning annexation and urban development within the Marysville urban growth area;

(p) 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. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.150 SEPA/GMA integration.

The city of Marysville adopts WAC 197-11-210 through 197-11-235, as now existing or hereinafter amended, by reference. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.160 Ongoing actions.

Pursuant to WAC 197-11-916, unless otherwise provided for herein, the provisions of Chapter 197-11 WAC shall apply to all elements of SEPA compliance, including modifying and supplementing an EIS initiated after the effective date of the ordinance codified in this title. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.170 Responsibility as consulted agency.

Pursuant to WAC 197-11-912, all requests from other agencies that the city of Marysville consult on threshold investigations, the scope process, EISs or other environmental documents shall be submitted to the community development director. The community development director shall be responsible for coordination with affected city departments and for compiling and transmitting the city of Marysville's response to such requests for consultation. (Ord. 2852 § 10 (Exh. A), 2011).

22E.030.180 Appeals.

The city of Marysville adopts WAC 197-11-680, with the following clarifications:

(1) Any agency or aggrieved person may appeal the procedures or substance of an environmental determination of the responsible official under SEPA as follows:

(a) Only one administrative appeal of a threshold determination or of the adequacy of an EIS is allowed; successive administrative appeals

on these issues within the same agency are not allowed. This limitation does not apply to administrative appeals before another agency.

(b) 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.

(c) 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.

(d) 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.

(e) Appeals of intermediate steps under SEPA (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(f) For any appeal under this section, the city shall provide for a record that shall consist of the following:

(i) Findings and conclusions;

(ii) Testimony under oath; and

(iii) A taped or written transcript.

(g) Determination by the responsible official shall carry substantial weight in any appeal proceeding.

(2) Notice. Whenever there is a final action by the city council for which compliance with SEPA is required and for which a statute or ordinance establishes a time limit for commencing judicial appeal, the city shall give official notice as required by WAC 197-11-680(5).

(3) 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 in this section. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22E.040

DOWNTOWN PLANNED ACTIONS

Sections:

22E.040.010 Purpose.
22E.040.020 Findings.
22E.040.030 Procedure and criteria for evaluating and determining projects as planned actions.
22E.040.040 Review and approval of planned action projects.
22E.040.050 Environmental documents.
22E.040.060 Conflict of development regulations and standards.

22E.040.010 Purpose.

The city council declares that the purpose of this chapter is to:

(1) Combine environmental analysis with land use planning;

(2) Streamline and expedite the land use permit process by relying on completed and existing detailed environmental analysis for certain land uses allowed in downtown Marysville;

(3) Set forth a procedure designating certain project actions within downtown Marysville as planned actions consistent with RCW 43.21C.031;

(4) Provide the public with an understanding of planned actions and how the city will process planned actions;

(5) Adopt the supplemental environmental impact statement for the downtown master plan (SEIS) as a planned action document that provides a framework for encouraging development proposals within the planned action area described in MMC 22E.040.030(1) ("planned action projects") that are consistent with the goals and policies of the city of Marysville comprehensive plan and the city of Marysville downtown master plan; and

(6) Apply the city's development codes together with the SEIS and mitigation framework described in MMC 22E.040.030 to expedite and simplify processing planned action developments, consistent with RCW 43.21C.240 and WAC 197-11-158. (Ord. 2852 § 10 (Exh. A), 2011).

22E.040.020 Findings.

The city council finds that:

(1) A subarea plan (downtown master plan or downtown plan) has been prepared and adopted by the council under the provisions of the Growth Management Act, Chapter 36.70A RCW, for the geographic area located within the downtown planning area commonly known as the downtown.

(2) The downtown master plan is consistent with the Marysville comprehensive plan and provides for the planned build-out of the downtown over a 20-year planning period.

(3) A supplemental environmental impact statement has been prepared pursuant to Chapter 43.21C RCW in conjunction with the adoption of the downtown master plan.

(4) The downtown plan and SEIS have addressed all the significant environmental impacts associated with the land uses allowed by the applicable development regulations and standards as described in the plan.

(5) The thresholds described in the downtown plan and SEIS are adequate to identify significant adverse environmental impacts.

(6) The mitigation measures contained in the mitigation document, Attachment A to the ordinance codified in this chapter, together with the city's development regulations and standards, are adequate to mitigate the significant adverse environmental impacts anticipated by development consistent with the downtown plan.

(7) A streamlined process will benefit the public, adequately protect the environment, and enhance the economic redevelopment of the downtown.

(8) Public involvement and review of the downtown plan and SEIS have been extensive and adequate to ensure a substantial relationship to the public interest, health, safety, and welfare.

(9) The uses allowed by the city's development regulations in the zoning classifications in the downtown will implement the downtown plan.

(10) This chapter shall be known as the "downtown planned actions" ordinance or chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22E.040.030 Procedure and criteria for evaluating and determining projects as planned actions.

(1) Land uses and activities described in the downtown master plan and SEIS, subject to the thresholds described therein and the mitigation measures described in the mitigation document attached to Ordinance No. 2787 as Attachment A, may be determined to be planned actions consistent with RCW 43.21C.031 and WAC 197-11-164 through 197-11-172 and pursuant to this chapter.

(2) Applications for project permit or approval which may qualify as planned actions under this chapter shall meet the submittal requirements of Chapter 22G.010 MMC for the particular type of land use action, permit, or approval sought, including submittal of an environmental checklist or other environmental document where required.

(3) Upon receipt of a complete application under the provisions of Chapter 22G.010 MMC, the community development director or designee shall determine whether a particular application for project permit or approval qualifies as a planned action according to the following criteria:

(a) The project is located within the geographic boundaries described in the downtown plan;

(b) The zoning designation of the property where the project is proposed is consistent with those designations analyzed in the downtown plan and SEIS;

(c) The use described in and proposed by the project application is among, or consistent with, the uses and intensity of uses allowed by the city's development regulations and consistent with those uses analyzed in the downtown plan and SEIS;

(d) The proposed project impacts, both project-specific and cumulative, are within the thresholds set forth in the downtown plan and SEIS, and summarized in the mitigation document (Attachment A to the ordinance codified in this chapter);

(e) The project's probable significant environmental impacts have been adequately addressed and analyzed in the downtown plan and SEIS;

(f) The project implements the goals and policies of the downtown plan and is consistent with the city's comprehensive plan;

(g) The project's probable significant environmental impacts will be adequately mitigated or avoided through the application of the mitigation measures and other conditions required by application of the mitigation document (Attachment A to the ordinance codified in this chapter) and other local, state, and federal development regulations and standards;

(h) The proposed project complies with all applicable local, state, and federal regulations and development standards;

(i) The proposed project is located within the city of Marysville urban growth area;

(j) The proposed project is not an essential public facility as defined by RCW 36.70A.200.

(4) The community development director shall make a written determination that an application for project permit or approval meets the criteria in subsection (3) of this section. Such written determination shall be issued simultaneously with, and in the same manner as, the written notice of appli-

cation required by Chapter 22G.010 MMC, Article IV, Land Use Application Requirements. The community development director's determination shall be appealable in accordance with MMC 22G.010.310.

(5) If the community development director determines that an application for project permit or approval does not qualify as a planned action, the application shall be reviewed and processed under the applicable procedures for project approval under Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures. The community development director shall prescribe a SEPA review procedure consistent with Chapter 22E.030 MMC. Such SEPA review may use or incorporate relevant elements of the environmental analysis in the SEIS or downtown master plan.

(6) If the community development director determines that an application for project permit or approval qualifies as a planned action, the project permit application shall be processed under the administrative procedures set forth in MMC 22E.040.040. (Ord. 2852 § 10 (Exh. A), 2011).

22E.040.040 Review and approval of planned action projects.

(1) An application for project permit or approval, which is designated by the community development director as a planned action under MMC 22E.040.030, shall be subject to approval under the provisions of Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures.

(2) No application for project permit or approval designated a planned action under MMC 22E.040.030 shall require the issuance of a threshold determination under SEPA, as provided by RCW 43.21C.031 and WAC 197-11-172(2)(a). No procedural SEPA appeals under Chapter 22E.030 MMC shall be allowed.

(3) An application for project permit or approval designated a planned action under MMC 22E.040.030 shall not be subject to further procedural review under SEPA, but the proposed project may be conditioned to mitigate any adverse environmental impacts which are reasonably likely to result from the project proposal.

(4) The determination to approve, conditionally approve, or deny an application for planned action project permit or approval shall be appealable pursuant to MMC 22G.010.310; provided, that the environmental analysis and mitigation measures or other conditions contained in the mitigation document (Attachment A to the ordinance codified in this chapter), the downtown master plan, or SEIS shall be afforded substantial weight. (Ord. 2852 § 10 (Exh. A), 2011).

22E.040.050 Environmental documents.

A planned action designation for a site-specific project action, permit, or approval shall be based upon the environmental analysis contained in the downtown master plan and SEIS. This downtown plan and SEIS, including potential mitigation measures, are hereby incorporated in this chapter and adopted by reference. The mitigation document (Attachment A to the ordinance codified in this chapter) is based upon the analysis contained in the SEIS. The mitigation document, together with existing city codes, ordinances, and standards, shall provide the framework for the decision by the city to impose conditions on a planned action project. Other environmental documents and studies listed in the downtown plan and SEIS may also be used to assist in analyzing impacts and determining appropriate mitigation measures in accordance with MMC 22E.040.040. (Ord. 2852 § 10 (Exh. A), 2011).

22E.040.060 Conflict of development regulations and standards.

In the event of conflict between this chapter or any mitigation measures imposed pursuant thereto and any other ordinance or regulation of the city, the provisions of this chapter shall control. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22E.050

SHORELINE MANAGEMENT MASTER PROGRAM

Sections:

22E.050.010 Adoption.
22E.050.020 Compliance required.
22E.050.030 Permit required.
22E.050.040 Permit – Fees.
22E.050.050 Application – Form.
22E.050.060 Review process.
22E.050.070 Notice publication.
22E.050.080 Decision.
22E.050.090 Permit – Issuance.
22E.050.100 Signing of permit.
22E.050.110 Commencement of construction – Time lapse.
22E.050.120 Time requirements of permit.
22E.050.130 Scope of chapter.
22E.050.140 Burden of proof.
22E.050.150 Permit rescinded.
22E.050.160 Rescission – Hearing.
22E.050.170 Mayor's authority.
22E.050.180 Subsequent hearing – Publication of notice.
22E.050.190 Revisions to permit.
22E.050.200 Streamside protection zone.
22E.050.210 Violation – Penalty.

22E.050.010 Adoption.

The city council hereby adopts the 2006 Shoreline Master Plan as an element of, and amendment to, the Marysville Growth Management Comprehensive Plan, subject to the modifications set forth in the Department of Ecology's required changes, which are attached to Ordinance No. 2668 as Attachment B. A copy of the comprehensive plan amendment, entitled the 2006 Shoreline Master Plan, is attached to Ordinance No. 2668 as Exhibit C and is hereby incorporated by this reference. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.020 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. 2852 § 10 (Exh. A), 2011).

22E.050.030 Permit required.

No substantial development shall be undertaken on the shorelines of the city without first obtaining a permit from the city. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.040 Permit – Fees.

All persons desiring such a permit shall make application by paying a fee as set out in Chapter 22G.030 MMC and filing an application with the community development department. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.050 Application – Form.

Applications for permits shall be made on forms prescribed by the community development 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 community development department. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.060 Review process.

The community development 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. 2852 § 10 (Exh. A), 2011).

22E.050.070 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 community development 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. 2852 § 10 (Exh. A), 2011).

22E.050.080 Decision.

In the event the community development director determines the substantial development is consistent with the above criteria, the community development director shall so state in written findings, and such shall be filed with the Department of Ecology. In the event the community development

director determines the substantial development is inconsistent with the above criteria the application shall be denied. Decisions of the community development director may be appealed on written filing of an appeal by an aggrieved party. Appeals of administrative decisions by the community development director shall be heard by the hearing examiner in accordance with the manner prescribed in Chapter 22G.010 MMC, Article VIII, Appeals, and Chapter 22G.060 MMC. The hearing examiner's decision shall be reviewed by the city council pursuant to MMC 22G.060.130. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.090 Permit – Issuance.

In the event, however, no appeal is filed following the filing of the findings of the community development director, and no public hearing is set, then the permit shall issue upon the terms and conditions hereinafter prescribed and as prescribed by the community development director. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.100 Signing of permit.

The mayor and the city clerk shall sign the permit, and upon such the same shall be deemed issued. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.110 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. 2852 § 10 (Exh. A), 2011).

22E.050.120 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, and 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. 2852 § 10 (Exh. A), 2011).

22E.050.130 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. 2852 § 10 (Exh. A), 2011).

22E.050.140 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. 2852 § 10 (Exh. A), 2011).

22E.050.150 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. 2852 § 10 (Exh. A), 2011).

22E.050.160 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 develop-

ment, and by notice in a newspaper of general circulation within the city at least 10 days prior to the hearing. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.170 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. 2852 § 10 (Exh. A), 2011).

22E.050.180 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 legislative policies stated in RCW 90.58.020, Shoreline Management Act, and the shoreline master program of the city of Marysville. If at such hearing the majority of the council determines that such development satisfies the criteria, then a permit shall be issued upon the terms and conditions hereinafter prescribed and prescribed by the council. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.190 Revisions to permit.

When an applicant seeks to revise a substantial development, conditional use or variance permit, the city community development department shall request from the applicant detailed plans and text describing the proposed changes in the permit. If the community development department 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. 2852 § 10 (Exh. A), 2011).

22E.050.200 Streamside protection zone.

(1) Establishment of Zone – Purpose. A streamside 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 the shoreline master program of the city of Marysville (omitting any references to the Department of Ecology). If a variance application is merged with a pending shoreline 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 22C.100 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 International Building Code. (Ord. 2852 § 10 (Exh. A), 2011).

22E.050.210 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. 2852 § 10 (Exh. A), 2011).

Title 22F

CONSTRUCTION STANDARDS

(Reserved)

Title 22G

ADMINISTRATION AND PROCEDURES

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Chapter 22G.010

LAND USE APPLICATION PROCEDURES

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22G.010.010 Purpose.

The purpose of this chapter 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 22G.010.200. (Ord. 2852 § 10 (Exh. A), 2011).

Article I. Consolidated Application Process

22G.010.020 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. 2852 § 10 (Exh. A), 2011).

22G.010.030 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. 2852 § 10 (Exh. A), 2011).

22G.010.040 Content of applications.

(1) All applications for approval under MMC Title 22 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. 2852 § 10 (Exh. A), 2011).

22G.010.050 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 22G.010.040.

(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. 2852 § 10 (Exh. A), 2011).

22G.010.060 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. 2852 § 10 (Exh. A), 2011).

22G.010.070 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 Chapter 22E.030 MMC.

(2) SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

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(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. 2852 § 10 (Exh. A), 2011).

22G.010.080 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 22G.060 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.

(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. 2852 § 10 (Exh. A), 2011).

Article II. Public Notice Requirements

22G.010.090 Notice of development application.

(1) Within 14 days of issuing a letter of completeness under Article I of this chapter, Consolidated Application Process, 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. 2852 § 10 (Exh. A), 2011).

22G.010.100 Notice of administrative approvals.

Notice of administrative approvals subject to notice under MMC 22G.010.160 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. 2852 § 10 (Exh. A), 2011).

22G.010.110 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 Title 22 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. 2852 § 10 (Exh. A), 2011).

22G.010.120 Notice of appeal hearing.

In addition to the posting and publication requirements of MMC 22G.010.110, 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. 2852 § 10 (Exh. A), 2011).

22G.010.130 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. 2852 § 10 (Exh. A), 2011).

Article III. Review and Approval Process

22G.010.140 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 22G.010.170(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 22G.010.110(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. 2852 § 10 (Exh. A), 2011).

22G.010.150 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 in accordance with MMC 22G.010.260;

(d) Home occupations;

(e) Critical areas management determinations made by the community development director pursuant to Chapter 22E.010 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. 2981 § 3, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22G.010.160 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. 2852 § 10 (Exh. A), 2011).

22G.010.170 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 22G.010.110.

(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 22G.060 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22G.010.180 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. 2852 § 10 (Exh. A), 2011).

22G.010.190 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 22G.010.550(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. 2852 § 10 (Exh. A), 2011).

22G.010.200 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.

(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. 2852 § 10 (Exh. A), 2011).

22G.010.205 Expiration of application.

(1) Any application which has been determined to be complete, and for which the applicant fails to complete the next application step for a period of 180 days after issuance of the determination of completeness, or for a period of 180 days after the city of Marysville has requested additional information or studies, will expire by limitation and become null and void. The department may grant a 180-day extension on a one-time basis per application. In no event shall an application be pending for more than 360 days from the date the application is deemed complete. For purposes of this subsection, all time during which the city is reviewing materials submitted by an applicant will be excluded. This subsection shall apply to applications regardless of whether the applications were submitted prior to the effective date of this section, as amended.

(2) Applications which have been determined to be complete by the effective date of the ordinance codified in this section shall have 120 days to complete the project review, receive a decision, and complete any appeal provisions of this chapter. The department will notify any applicants in writing that are subject to this provision within 30 days of the effective date of the ordinance codified in this section. For purposes of this subsection, all time during which the city is reviewing materials submitted by an applicant will be excluded. (Ord. 2913 § 3, 2012).

22G.010.210 Construction plan approval.

(1) Construction plans for projects reviewed under the development code shall be approved for a period of 60 months from the date the city signs the "City of Marysville Construction Drawing Review Acknowledgement" block included on the civil construction plans or until expiration of the preliminary plat, preliminary short plat, binding site plan, conditional use permit or site plan approval.

(2) The city may grant an extension of up to 12 months, if substantial progress has been made by the applicant to complete construction of the approved project. Extensions shall be considered on a case-by-case basis by the public works director or designee and will require a letter to be submitted to the city requesting the extension. Said letter shall demonstrate that the project has made substantial construction progress, the reason for the extension request, and an estimated timeline for completion of construction.

(3) When the approval period (or any extension thereof) expires, the city's approval of the construction plans shall be deemed automatically withdrawn. In order to receive further consideration by the city after such expiration and automatic withdrawal, construction plans must be resubmitted and must comply with the current code requirements. (Ord. 2852 § 10 (Exh. A), 2011).

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Article IV. Land Use Application Requirements

22G.010.220 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. 2852 § 10 (Exh. A), 2011).

22G.010.230 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. 2852 § 10 (Exh. A), 2011).

22G.010.240 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 Chapter 22G.090 MMC, Subdivisions and Short Subdivisions;

(e) A sensitive area report, if applicable;

(f) A completed environmental checklist, if required by Chapter 22E.030 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 community development director may waive specific submittal requirements determined to be unnecessary for review of an application. (Ord. 2852 § 10 (Exh. A), 2011).

22G.010.250 Vesting.

(1) Purpose. The purpose of this section is to implement plan policies and state laws that provide for vesting. This section is intended to provide property owners, permit applicants, and the general public assurance that regulations for project development will remain consistent during the lifetime of the application. The section also establishes time limitations on vesting for permit approvals and clarifies that once those time limitations expire, all current development regulations and current land use controls apply.

(2) Applicability. This section applies to complete applications and permit approvals required by the city of Marysville pursuant to MMC Title 22, including and limited to land use permits, preliminary subdivisions, final subdivisions, short subdivisions, binding site plans, conditional use permits, shoreline development permits and any other land use permit application that is determined by Washington State law to be subject to the Vested Rights Doctrine. Vesting of building permit applications is governed by the rules of RCW 19.27.095 and MMC Title 16.

(3) Vesting of Applications.

(a) An application described in subsection (2) of this section shall be reviewed for consistency with the applicable development regulations in effect on the date the application is deemed complete.

(b) An application described in subsection (2) of this section shall be reviewed for consistency with the construction and utility standards in effect on the date the separate application for a construction or utility permit is deemed complete. An applicant may submit a separate construction or utility permit application simultaneously with any application described in subsection (2) of this section to vest for a construction or utility standard. The application or approval of a construction or utility permit or the payment of connection charges or administrative fees to a public utility does not constitute a binding agreement for service and shall not establish a vesting date for development regu-

lations used in the review of applications described in subsection (2) of this section.

(c) An application described in subsection (2) of this section utilizing vested rights shall be subject to all development regulations in effect on the vesting date.

(d) An application described in subsection (2) of this section that is deemed complete is vested for the specific use, density, and physical development that is identified in the application submittal.

(e) Applications submitted pursuant to MMC Title 22 that are not listed in subsection (2) of this section shall be governed by those standards which apply to said application. These applications shall not vest for any additional development regulations.

(f) The property owner is responsible for monitoring the time limitations and review deadlines for the application. The city shall not be responsible for maintaining a valid application. If the application expires, a new application may be filed with the community development department, but shall be subject to the development regulations in effect on the date of the new application.

(4) Duration of Vesting.

(a) Land Use Permits. The development of an approved land use permit shall be governed by the terms of approval of the permit unless the legislative body finds that a change in conditions creates a serious threat to the public health, safety or welfare.

(b) Preliminary Subdivision. Development of an approved preliminary subdivision shall be based on the controls contained in the hearing examiner's decision. A final subdivision meeting all of the requirements of the preliminary subdivision approval shall be submitted within the time period specified in MMC 22G.090.170 and RCW 58.17.140. Any extension of time beyond the time period specified in MMC 22G.090.170 and RCW 58.17.140 may contain additional or altered conditions and requirements based on current development regulations and other land use controls.

(c) Land Use Permits Associated with a Preliminary Subdivision. Land use permit applications, such as planned residential development applications that are approved as a companion to a preliminary subdivision application shall remain valid for the duration of the preliminary and final subdivision as provided in subsections (4)(b) and (d) of this section.

(d) Final Subdivision. The lots in a final subdivision may be developed by the terms of approval of the final subdivision, and the development regulations in effect at the time the preliminary subdivision application was deemed complete for a period as specified in RCW 58.17.170 unless the legislative body finds that a change in conditions creates a serious threat to the public health, safety or welfare.

(e) Short Subdivision. The lots in a short subdivision may be developed by the terms and conditions of approval, and the development regulations in effect at the time the application was deemed complete for a period specified in RCW 58.17.170 unless the legislative body finds that a change in conditions creates a serious threat to the public health, safety or welfare.

(f) Binding Site Plan. The lots in a binding site plan may be developed by the terms of approval of the binding site plan, and the development regulations in effect at the time the application was deemed complete unless the legislative body finds that a change in conditions creates a serious threat to the public health, safety or welfare.

(g) All approvals described in this section shall be vested for the specific use, density, and physical development that is identified in the permit approval.

(h) Sign Permit. A sign permit shall expire if the permit is not exercised within one year of its issuance. No extensions of the expiration date shall be permitted.

(5) Waiver of Vesting. A property owner may voluntarily waive vested rights at any time during the processing of an application by delivering a written and signed waiver to the director stating that the property owner agrees to comply with all development regulations in effect on the date of delivery of the waiver. Any change to the application is subject to the modification criteria described in MMC 22G.010.260 and 22G.010.270 and may require revised public notice and/or additional review fees. (Ord. 2981 § 4, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22G.010.260 Minor revisions to approved development applications.

The purpose and intent of this section is to provide an administrative process for minor revisions to approved development applications. For the purposes of this section, approved development applications shall include preliminary approval for subdivisions and short subdivisions and final approval prior to construction for all other development applications.

(1) A minor revision to an approved residential development application is limited to the following when compared to the original development application; provided, that there shall be no change in the proposed type of development or use:

(a) Short subdivisions shall be limited to no more than one additional lot, provided the maximum number of lots allowed in a short subdivision is not exceeded.

(b) Subdivisions, single-family detached unit developments, cottage housing, townhomes and multiple-family developments shall be limited to the lesser of:

(i) A 10 percent increase in the number of lots or units; or

(ii) An additional 10 lots or units, provided the additional/lots units will not cause the project to exceed the maximum categorical exemption threshold level established in MMC 22E.030.090.

(c) A reduction in the number of lots or units.

(d) A change in access points may be allowed when combined with subsection (1)(a) or (b) of this section or as a standalone minor revision; provided, that it does not change the trip distribution. No change in access points that changes the trip distribution can be approved as a minor revision.

(e) A change to the project boundaries required to address surveying errors or other issues with the boundaries of the approved development application; provided, that the number of lots or units cannot be increased above the number that could be approved as a minor revision to the original approved development application on the original project site before any boundary changes.

(f) A change to the internal lot lines that does not increase lot or unit count beyond the amount allowed for a minor revision.

(g) A change in the aggregate area of designated open space that does not decrease the amount of designated open space by more than 10 percent. Under no circumstances shall the quality or amount of designated open space be decreased to an amount that is less than that required by code.

(h) A change not addressed by the criteria in subsections (1)(a) through (g) of this section which does not substantially alter the character of the approved development application or site plan and prior approval.

(2) A minor revision to an approved nonresidential development application is limited to the following when compared to the original development application; provided, that there is no change in the proposed type of development or use or no more than a 10 percent increase in trip generation:

(a) A utility structure shall be limited to no more than a 400-square-foot increase in the gross floor area.

(b) All other structures shall be limited to no more than a 10 percent increase in the gross floor area.

(c) A change in access points when combined with subsection (2)(a) or (b) of this section or as a standalone minor revision.

(d) A change which does not substantially alter the character of the approved development application or site plan and prior approval.

(3) A minor revision may be approved subject to the following:

(a) An application for a minor revision shall be submitted on forms approved by the community development department. An application for a minor revision shall not be accepted if a variance is required to accomplish the change to the approved development.

(b) An application for a minor revision shall be accompanied by any fees specified in Chapter 22G.030 MMC.

(c) An application for a minor revision shall require notification of the relevant city departments and agencies.

(d) An application for a minor revision shall be subject to the development regulations in effect as of the date the original development application was determined to be complete.

(e) The director shall grant approval of the request for a minor revision if it is determined that the minor revision does not substantially alter:

(i) The previous approval of the development application;

(ii) The final conditions of approval; or

(iii) The public health, safety and welfare.

(f) A minor revision shall be properly documented as a part of the records for the approved development application.

(g) A minor revision does not extend the life or term of the development application approval and concurrency determination, which shall run from the original date of:

(i) Preliminary approval for subdivisions or short subdivisions; or

(ii) Approval for all other development applications.

(4) The final determination of what constitutes a minor revision shall be made by the community development director. (Ord. 2981 § 5, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22G.010.270 Major revisions to approved residential development applications.

The purpose and intent of this section is to provide a process for major revisions to approved residential development applications. Residential development applications shall include short subdivisions, subdivisions, single-family detached unit developments, cottage housing, townhomes and multiple-family developments. For the purposes of this section, approved residential development applications shall include preliminary approval for subdivisions and short subdivisions and final approval prior to construction for all other residential development applications.

(1) A major revision to an approved residential development application is limited to the following when compared to the original development application, provided there is no change in the proposed type of development or use:

(a) Subdivisions, single-family detached unit developments, cottage housing, townhomes and multiple-family developments shall be limited to the lesser of:

(i) A 20 percent increase in the number of lots or units; or

(ii) An additional 20 lots or units.

(b) A change in access points, when combined with subsection (1)(a) of this section.

(c) A change to the project boundaries required to address surveying errors or other issues with the boundaries of the approved development application; provided, that the number of lots or units cannot be increased above the number that could be approved as a minor revision to the original approved development application on the original project site before any boundary changes.

(d) A change to the internal lot lines when combined with another criteria in subsection (1) of this section that does not increase lot or unit count beyond the amount allowed for a major revision.

(e) A change in the aggregate area of designated open space beyond that allowed as a minor revision; provided, that the decrease will not result in an amount that is less than that required by code.

(f) A change not addressed by the criteria in subsections (1)(a) through (e) of this section which does not substantially alter the character of the approved development application or site plan and prior approval.

(2) A major revision shall require processing through the same process as a new development application subject to the following:

(a) An application for a major revision shall be submitted on forms approved by the department. An application for a major revision shall not be accepted if a variance is required to accomplish the change to the approved development.

(b) An application for a major revision shall be accompanied by any fees specified in Chapter 22G.030 MMC.

(c) An application for a major revision shall require public notice pursuant to MMC 22G.010.090.

(d) An application for a major revision shall be subject to the development regulations in effect as of the date the original development application was determined to be complete.

(e) The community development director or the hearing examiner shall grant approval of the major revision if it is determined that the major revision does not substantially alter:

(i) The previous approval of the development application;

(ii) The final conditions of approval; or

(iii) The public health, safety and welfare.

(f) A major revision shall be properly documented as a part of the records for the approved development application.

(g) A major revision does not extend the life or term of the development application approval and concurrency determination, which shall run from the original date of:

(i) Preliminary approval for subdivisions or short subdivisions; or

(ii) Approval for all other residential development applications.

(3) The final determination of what constitutes a major revision shall be made by the community development director. (Ord. 2981 § 6, 2015).

22G.010.280 Revisions not defined as minor or major.

Any proposed revision to an approved development application that does not meet the criteria in MMC 22G.010.260 or MMC 22G.010.270 shall require a new development application and a new completeness determination. The new application shall conform to the development regulations which are in effect at the time the new development application is determined complete. (Ord. 2981 § 7, 2015).

22G.010.290 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. 2981 § 8, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.270).

22G.010.300 Oath of accuracy.

The applicant shall attest by written oath to the accuracy and completeness of all information submitted for an application. (Ord. 2981 § 9, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.280).

22G.010.310 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. 2981 § 10, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.290).

Article V. Code Compliance and Director Review Procedures

22G.010.320 Code compliance review – Actions subject to review.

The following actions shall be subject to administrative review by the community development director, or designee, 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. 2981 § 11, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.300).

22G.010.330 Decisions and appeals.

(1) The community development director shall approve with conditions or deny permits based on compliance with this title and any other development conditions affecting the proposal.

(2) Community development 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 the International Building Code as adopted by the city of Marysville;

(b) Grading permits shall comply with Chapter 22D.050 MMC and the International Building Code as adopted by the city of Marysville; and

(c) Temporary use permits shall comply with Chapter 22C.110 MMC. (Ord. 2981 § 12, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.310).

22G.010.340 Actions subject to review.

The following action shall be subject to the community development director review procedures set forth in this chapter:

(1) Applications for conditional uses. (Ord. 2981 § 13, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.320).

22G.010.350 Notice requirements and comment period.

(1) The department shall provide published, posted and mailed notice pursuant to Article II of this chapter, Public Notice Requirements, for all applications subject to community development director review.

(2) Written comments and materials regarding applications subject to community development director review procedures shall be submitted within 15 days of the date of published notice or the posting date, whichever is later. (Ord. 2981 § 14, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.330).

22G.010.360 Decision or public hearing required.

Following the comment period provided in MMC 22G.010.350, the community development director shall:

(1) Review the information in the record and render a decision pursuant to MMC 22G.010.380; 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 Article VI of this chapter, or state specific reasons why a hearing should be held; or

(b) The community development director determines that a hearing is necessary to address issues of vague, conflicting or inadequate information, or issues of public significance. (Ord. 2981 § 15, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.340).

22G.010.370 Additional requirements prior to hearing.

When a hearing before the hearing examiner is deemed necessary by the community development 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. 2981 § 16, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.350).

22G.010.380 Decision regarding proposal.

Decisions regarding the approval or denial of proposals subject to community development director review pursuant to MMC 22G.010.340 shall be based upon compliance with the required showings of Article VI of this chapter, Land Use Application – Decision Criteria. (Ord. 2981 § 17, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.360).

22G.010.390 Time limitations.

Permit approvals which are subject to review per MMC 22G.010.340 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 community development 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 or 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.

Exception: Effective until December 31, 2011, a one-time, 36-month time extension, less any previously approved one-year extension, may be granted by the community development director for any unexpired conditional use permit approved prior to December 31, 2009, if the applicant or successor:

(1) Files with the community development director a sworn and notarized declaration that final conditional use permit approval will be delayed as a result of adverse market conditions and an inability of the applicant to secure financing; and

(2) Is current on all invoices for work performed by the department on the conditional use permit review. (Ord. 2981 § 18, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.370).

Article VI. Land Use Application – Decision Criteria

22G.010.400 Purpose.

The purposes of this section 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 are 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. 2981 § 19, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.380).

22G.010.410 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. 2981 § 20, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.390).

22G.010.420 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. 2981 § 21, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.400).

22G.010.430 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 of 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, and 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. 2981 § 22, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.410).

22G.010.440 Rezone criteria.

(1) 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:

(a) There is a demonstrated need for additional zoning as the type proposed;

(b) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties;

(c) There have been significant changes in the circumstances of the property to be rezoned or surrounding properties to warrant a change in classification;

(d) The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

(2) Property at the edges of land use districts can make application to rezone property to the bordering zone without applying for a comprehensive plan map amendment if the proponent can demonstrate:

(a) The proposed land use district will provide a more effective transition point and edge for the proposed land use district than strict application of the comprehensive plan map would provide due to neighboring land uses, topography, access, parcel lines or other property characteristics;

(b) The proposed land use district supports and implements the goals, objectives, policies and text of the comprehensive plan more effectively than strict application of the comprehensive plan map; and

(c) The proposed land use change will not affect an area greater than 10 acres, exclusive of critical areas. (Ord. 2981 § 23, 2015; Ord. 2898 § 17, 2012; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.420).

22G.010.450 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 plan 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 subsections (1) and (2) of this section 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 community development department for review and approval. (Ord. 2981 § 24, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.430).

22G.010.460 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 22C.190 MMC. (Ord. 2981 § 25, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.440).

22G.010.470 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 accordance with MMC 22G.010.110. Immediately upon a petition for review being accepted by the hearing examiner, the community development 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 22G.010.560. (Ord. 2981 § 26, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.450).

22G.010.480 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. 2981 § 27, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.460).

22G.010.490 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. 2981 § 28, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.470).

Article VII. Text Amendments to MMC Title 22

22G.010.500 Purpose.

After reviewing the planning commission's recommendation concerning a proposed text amendment to MMC Title 22, the city council may amend, supplement, or change by ordinance any of the provisions in this title. (Ord. 2981 § 29, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.480).

22G.010.510 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. 2981 § 30, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.490).

22G.010.520 Required findings.

Amendments to the text of 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. 2981 § 31, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.500).

22G.010.530 Burden of proof.

The applicant must demonstrate that the proposed amendment meets the conditions of the required findings in MMC 22G.010.520. (Ord. 2981 § 32, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.510).

Article VIII. Appeals

22G.010.540 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 22G.010.560. (Ord. 2981 § 33, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.520).

22G.010.550 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. 2981 § 34, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.530).

22G.010.560 Judicial appeal.

(1) Appeals from the final decision of the hearing examiner, or other city board or body involving MMC Title 22 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. 2981 § 35, 2015; Ord. 2852 § 10 (Exh. A), 2011. Formerly 22G.010.540).

Chapter 22G.020

PROCEDURES FOR LEGISLATIVE ACTIONS

Sections:

22G.020.010 Purpose.
22G.020.020 Scope of chapter.
22G.020.030 Initial review and evaluation of proposed amendments and revisions.
22G.020.040 Planning commission review.
22G.020.050 City council review.
22G.020.060 Public notice and public hearings.
22G.020.070 Effect of city council action.
22G.020.080 Violation not grounds for invalidation.
22G.020.090 Severability.
22G.020.100 Repealer.

22G.020.010 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. 2852 § 10 (Exh. A), 2011).

22G.020.020 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 Chapters 22G.090 and 22G.100 MMC 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 22G.060 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. 2852 § 10 (Exh. A), 2011).

22G.020.030 Initial review and evaluation of proposed amendments and revisions.

The community development 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 community development department. (Ord. 2852 § 10 (Exh. A), 2011).

22G.020.040 Planning commission review.

All proposals falling within the scope of the chapter will be introduced to the Marysville planning commission, which may schedule workshops as needed to consider the proposal. City staff may prepare a report and recommendations to the planning commission. Prior to making a recommenda-

tion to the city council, the planning commission shall schedule a public hearing pursuant to the procedures set forth in MMC 22G.020.060. After the public hearing and any further study sessions as may be needed, the planning commission shall transmit its recommendation to the city council through the community development department. (Ord. 2852 § 10 (Exh. A), 2011).

22G.020.050 City council review.

Following the review by the planning commission, the city council shall consider at a public meeting each recommendation transmitted by the planning commission. The city council may hold its own public hearing pursuant to the procedures set forth in MMC 22G.020.060. Following such public meeting and/or public hearing, the city council may take any one of the following actions:

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

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

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

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

22G.020.060 Public notice and public hearings.

(1) Content. When the planning commission or city council has scheduled a public hearing on a legislative proposal, the community development 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 22G.020.020, 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 community development 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 community development director shall establish standards for size, color, layout, design, wording, placement, and timing of 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 22G.020.020, the community development 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 community development 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 community development 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 community development 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. 2852 § 10 (Exh. A), 2011).

22G.020.070 Effect of city council action.

The final action of the city council on all legislative matters described in MMC 22G.020.020, 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 22G.010.560. (Ord. 2852 § 10 (Exh. A), 2011).

22G.020.080 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 22G.020.020. (Ord. 2852 § 10 (Exh. A), 2011).

22G.020.090 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. 2852 § 10 (Exh. A), 2011).

22G.020.100 Repealer.

This chapter shall replace and supersede all other ordinances previously adopted which are inconsistent with the provisions of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.030

LAND USE AND DEVELOPMENT FEES

Sections:

22G.030.010 Purpose.
22G.030.020 General fee structure.

22G.030.010 Purpose.

The purpose of this chapter is to establish a comprehensive schedule of fees for various applications and permits authorized pursuant to MMC Title 22.

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. 2852 § 10 (Exh. A), 2011).

22G.030.020 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
Modifications:	
Minor	$500.00
Major	$500.00 or 30 percent of the applicable land use review fee, whichever is greater (excludes any lot or unit fee)
Miscellaneous reviews not otherwise listed	$120.00/hour

Type of Activity	Fee
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 – 2 acres)	$350.00
Commercial/industrial (2 – 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
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 time extension requests	$200.00
Temporary use permit	$50.00
Transitory accommodations permit	$500.00
Variance (quasi-judicial decision – zoning, utility)	$500.00
Zoning code text amendment	$500.00

Type of Activity	Fee
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) Residential (partial construction review – i.e., utilities, grading)	 $225.00/lot or unit (for duplex or condominium projects), $2,000 minimum for first two reviews, $120.00/hour for each subsequent review $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	
Security for performance/security for maintenance fee Inspection for water, sewer, storm, street improvements associated with approved residential construction plans Inspection for utilities only (residential)	$20.00/lot or unit, with a minimum amount being $250.00 $250.00/lot or unit (for duplex or condominium projects), $2,000 minimum $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
Impact Fee Administration Charge	
School impact fee administrative charge	$50.00/single-family or duplex, or $100.00/apartment building

(Ord. 2981 § 36, 2015; Ord. 2923 § 5 (Exh. C), 2013; Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.040

SECURITY FOR PERFORMANCE AND MAINTENANCE

Sections:

22G.040.010 Purpose.
22G.040.020 Security for performance – Form.
22G.040.030 Security for maintenance – Form.
22G.040.040 Amount of obligation.
22G.040.050 Adjustment to amount of obligation for type of security – Changed circumstances.
22G.040.060 Enforcement against security.
22G.040.070 Release of security.
22G.040.080 Right to refuse security.

22G.040.010 Purpose.

The purpose of this chapter is to establish consistent standards for the acceptance of security to insure the completion of improvements associated with development and to insure warranty for the improvements completed. This chapter should be liberally construed. It is the intent of the city to exercise the maximum authority allowed under state law to protect the citizens of the city and to hold development accountable for the timely completion and maintenance of improvements. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.020 Security for performance – Form.

Whether in the form of a bond, irrevocable letter of credit, or assignment of cash deposit, the undertaking for performance shall contain the following provisions:

(1) A stated amount calculated in accordance with the requirements of this chapter;

(2) A detailed description of the improvements to be completed and the deadline by which completion must occur;

(3) A provision reading as follows:

> The security for performance is obligated, bound and guarantees completion of the work by the deadline. If the work is not fully completed by the deadline to City standards, then the party bound shall within thirty days of demand from the City make a written commitment to the City that it will either:
>
> (a) Remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
>
> (b) Tender to the City within an additional fifteen (15) days the amount necessary, as determined in good faith by the City, for the City to remedy the default, up to the total amount of the security. Said estimate shall include reasonable City administrative overhead costs, legal costs and attorneys fees.

Upon completion of the duties of the surety or party bound under either of the options above, the party bound shall then have fulfilled its obligations under the security for performance. If the party bound elects to fulfill its obligation pursuant to the requirements of subsection (3)(b) of this section, the city shall notify the party bound of the actual costs of the remedy, upon completion of the work. The city shall return, without interest, any overpayment made by the party bound, and the party bound shall pay to the city any actual costs exceeding the city's estimate, limited to the amount of the security for performance.

The security for performance shall extend to all of the city's administrative overhead costs and to all legal costs and reasonable attorneys' fees incurred in seeking performance by the principal and any other obligated or bound party to the maximum value or penal sum of the security.

Any security for performance received by the city after the effective date of the ordinance codified in this chapter shall be construed to contain the terms of subsections (1), (2) and (3) of this section, whether the said provisions are expressly set out or not. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.030 Security for maintenance – Form.

Whether in the form of a bond, irrevocable letter of credit, or assignment of cash deposit, the undertaking for maintenance shall contain the following provisions:

(1) A stated amount calculated in accordance with the requirements of this chapter;

(2) A detailed description of the warranty, maintenance to be performed, and any monitoring and reporting requirements, and the duration of each;

(3) A provision reading as follows:

> The security for maintenance is obligated and bound to warrant, monitor, report, and maintain the improvements for the stated duration. If City shall grant acceptance of some improvements but not all improvements at the same time, the security for maintenance shall become effective as to each improvement as and when that improvement is accepted and shall remain in effect for the stated duration for each improvement from the date of its accep-

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tance. If required monitoring, reporting, maintaining and repair and replacement in accordance with warranty does not occur in accordance with City standards, then the surety or party bound shall within thirty (30) days of demand from the City, make a written commitment to the City that it will either:

(a) Remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or

(b) Tender to the City within an additional fifteen (15) days the amount necessary, as determined in good faith by the City, for the City to remedy the default, up to the total amount of the security. Said estimate shall include reasonable City administrative overhead costs, legal costs and attorneys fees.

Upon completion of the duties of the surety or party bound under either of the options above, the party bound shall then have fulfilled its obligations under the security for maintenance. If the party bound elects to fulfill its obligation pursuant to the requirements of subsection (3)(b) of this section, the city shall notify the party bound of the actual costs of the remedy, upon completion of the work. The city shall return, without interest, any overpayment made by the party bound, and the party bound shall pay to the city any actual costs exceeding the city's estimate, limited to the amount of the security for maintenance.

The security for maintenance shall extend to all of the city's administrative overhead costs and to all legal costs and reasonable attorneys' fees incurred in seeking performance by the principal and any other obligated or bound party to the maximum value or penal sum of the security.

Any security for maintenance received by the city after the effective date of the ordinance codified in this chapter shall be construed to contain the terms of subsections (1), (2) and (3) of this section, whether the said provisions are expressly set out or not. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.040 Amount of obligation.

The amount of the security, either for performance or maintenance, subject to adjustment under MMC 22G.040.050, shall be calculated as follows:

(1) Security for Performance. The principal amount of the security, whether in the form of a bond, irrevocable letter of credit, or assignment of cash deposit, shall be calculated as follows:

Amount equals current fair market cost for performance adjusted for inflation for term of obligation, multiplied by 1.5 to reflect city's cost if it must perform under competitive bidding and prevailing wage, plus 30 percent of the current fair market cost for performance as city's administrative overhead costs and anticipated legal costs and reasonable attorneys' fees, provided the total amount for administrative costs and anticipated legal costs and reasonable attorneys' fees shall not exceed $100,000.

(2) Security for Maintenance. The principal amount of the security, whether in the form of a bond, irrevocable letter of credit, or assignment of cash deposit, shall be calculated as follows:

Amount equals 10 percent of the fair market value of the improvement, with a minimum amount being $5,000, plus 30 percent of the amount calculated for security for maintenance as city's administrative overhead costs and anticipated legal costs and reasonable attorneys' fees, provided the total amount for administrative costs and anticipated legal costs and reasonable attorneys' fees shall not exceed $100,000.

(3) Anticipated Legal Costs and Reasonable Attorneys' Fees. Anticipated legal costs and reasonable attorneys' fees are those city costs incurred for securing compliance or collecting funds and any other legal costs incurred through the completion of the work.

(4) Administrative Overhead Costs. Administrative overhead costs are those internal costs incurred for staff time in observing the condition of improvements or maintenance, and taking action to secure compliance, together with costs incurred to consultants to observe, monitor and report concerning work or maintenance. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.050 Adjustment to amount of obligation for type of security – Changed circumstances.

Notwithstanding the calculation of the amount of the security under MMC 22G.040.040, the city shall have the authority to modify the amount of obligation to reflect the city's experience and history in obtaining performance or required maintenance with the type of security offered, bond, irrevocable letter of credit, or assignment of cash deposit. If the city's experience and history would require an increase in the amount of the obligation by more than an additional 25 percent, the city shall refuse the security offered. Should the security once received not provide adequate assurance of performance due to changed circumstances, including increased cost of performance, the city through the community development director may require that the amount of security for performance

or maintenance be increased to reflect then fair market costs of performance. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.060 Enforcement against security.

All legal actions to enforce either security for performance or maintenance may be brought in the Superior Court of Washington with venue in Snohomish County. The city shall be entitled to an award of legal costs and reasonable attorneys' fees in any such proceedings against the principal and against the surety to the maximum penal sum of the security held. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.070 Release of security.

Upon full and timely performance of the work, and/or full and timely performance of maintenance, monitoring, reporting, repair or replacement, the city shall release its security for performance and/or security for maintenance, as the case may be. (Ord. 2852 § 10 (Exh. A), 2011).

22G.040.080 Right to refuse security.

The city reserves the right to refuse security for performance and to require that performance of work as a condition of approval be completed prior to final acceptance. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.050

PLANNING COMMISSION

Sections:

22G.050.010 Planning commission created.
22G.050.020 Appointment of members – Term of office.
22G.050.030 Expenses.
22G.050.040 Meetings – Officers – Rules.
22G.050.050 Quorum – Voting.
22G.050.060 Conflicts of interest.
22G.050.070 General powers and duties.

22G.050.010 Planning commission created.

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

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

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

22G.050.030 Expenses.

The planning commission, as a body, or individual members thereof, may be reimbursed for actual and reasonable expenses in the performance of their duties in behalf of the commission. Such expenses may include, but are not limited to, such items as: travel and subsistence, registration fees and other costs incidental to meetings and conferences, professional and consulting services, educational fees, dues and assessments of professional planning organizations, subscriptions to periodicals and purchases of informational and educational texts, and similar expenditures that may be

deemed necessary to increase the efficiency and professional ability of the members of the commission. Planning commission expenses shall be subject to authorization and approval by the city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.050.040 Meetings – Officers – Rules.

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

22G.050.050 Quorum – Voting.

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

22G.050.060 Conflicts of interest.

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

22G.050.070 General powers and duties.

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

(1) Prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the city and its environs; hold public hearings on said plan, and any amendments thereto, and make recommendations to the city council;

(2) Divide the city into appropriate zones within which specific standards, requirements and conditions may be provided for regulating the use of public and private land, buildings and structures, and the location, height, bulk, number of stories and size of buildings and structures, size of yards, courts, open spaces, densities of population, ratio of land area to the area of buildings and structures, setbacks, area required for off-street parking, protection of access to direct sunlight for solar energy systems, and such other standards, requirements, regulations and procedures as are appropriately related thereto; hold public hearings on the adoption of zoning ordinances and maps, and amendments thereto, and make recommendations to the city council;

(3) Prepare a shoreline management master program for the shorelines of the city, and a shoreline environment designation map, as required by state law and city ordinance; hold public hearings on the same, and any amendments thereto, and make recommendations to the city council;

(4) Review all proposed amendments to the city zoning code, subdivision code and shoreline management code; hold public hearings thereon, and make recommendations to the city council;

(5) Conduct, on its own initiative or upon request by the mayor or city council, investigations into matters relating to the physical, economic and environmental development of the city, and public works and civic improvements, and submit reports and recommendations to the mayor and city council with respect to the same;

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

Chapter 22G.060

HEARING EXAMINER

Sections:

22G.060.010 Purpose.
22G.060.020 Creation of office.
22G.060.030 Appointment.
22G.060.040 Qualifications.
22G.060.050 Removal.
22G.060.060 Conflict of interest and appearance of fairness.
22G.060.070 Freedom from improper influence.
22G.060.080 Rules.
22G.060.090 Duties.
22G.060.100 Public hearings.
22G.060.110 Examiner's decision.
22G.060.120 Notice of examiner's decision.
22G.060.130 Decision final action by city.
22G.060.140 Conflicting code provisions and rules of procedure.

22G.060.010 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. 2852 § 10 (Exh. A), 2011).

22G.060.020 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. 2852 § 10 (Exh. A), 2011).

22G.060.030 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. 2852 § 10 (Exh. A), 2011).

22G.060.040 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. 2852 § 10 (Exh. A), 2011).

22G.060.050 Removal.

The examiner may be removed from office for cause by the mayor, subject to confirmation by majority vote of the city council. (Ord. 2852 § 10 (Exh. A), 2011).

22G.060.060 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. 2852 § 10 (Exh. A), 2011).

22G.060.070 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. 2852 § 10 (Exh. A), 2011).

22G.060.080 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. 2852 § 10 (Exh. A), 2011).

22G.060.090 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 22E.050 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) Appeals of suspension or removal of tow truck operators from the city's list under MMC 11.37.060;

(14) Appeals of a chronic nuisance property notice outlined in Chapter 6.23 MMC;

(15) Such other regulatory, enforcement or quasi-judicial matters as may be assigned to the examiner by the mayor and city council. (Ord. 2970 § 2, 2014; Ord. 2852 § 10 (Exh. A), 2011).

22G.060.100 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. 2852 § 10 (Exh. A), 2011).

22G.060.110 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. 2852 § 10 (Exh. A), 2011).

22G.060.120 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. 2852 § 10 (Exh. A), 2011).

22G.060.130 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 22G.010 MMC, Article VIII, Appeals. (Ord. 2852 § 10 (Exh. A), 2011).

22G.060.140 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. 2852 § 10 (Exh. A), 2011).

Chapter 22G.070

SITING PROCESS FOR ESSENTIAL PUBLIC FACILITIES

Sections:

22G.070.010 Purpose and applicability.
22G.070.020 Conditional use permit required.
22G.070.030 Siting process initiation.
22G.070.040 Optional site consultation process.
22G.070.050 EPF conditional use permit procedure.
22G.070.060 Independent consultant review.
22G.070.070 Decision criteria.
22G.070.080 Permit approval.
22G.070.090 Reconsideration and optional advisory review process.
22G.070.100 Building permit application.

22G.070.010 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 inpatient 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 Chapter 22A.020 MMC 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 additional 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. 2852 § 10 (Exh. A), 2011).

22G.070.020 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 matrices in Chapters 22C.010 and 22C.020 MMC. In the event of a conflict with Chapters 22C.010 and 22C.020 MMC, the provision of this section shall govern.

(2) An EPF that is difficult to site must satisfy the requirements of MMC 22G.010.430 and the requirements of this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

22G.070.030 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 22G.070.010(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 22G.070.050. (Ord. 2852 § 10 (Exh. A), 2011).

22G.070.040 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. 2852 § 10 (Exh. A), 2011).

22G.070.050 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 22G.070.070. (Ord. 2852 § 10 (Exh. A), 2011).

22G.070.060 Independent consultant review.

(1) The department may require independent consultant review of the proposal to assess its compliance with the criteria contained in MMC 22G.070.070. For health and social service facilities that house persons who constitute a threat to the community, as defined in Chapter 22A.020 MMC, 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. 2852 § 10 (Exh. A), 2011).

22G.070.070 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 22G.010.430, 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 on-site 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 Chapter 22A.020 MMC, the sponsor has proposed mitigation measures that substantially reduce or compensate for adverse impacts on public health and safety. (Ord. 2852 § 10 (Exh. A), 2011).

22G.070.080 Permit approval.

If the project sponsor demonstrates compliance with the review criteria listed in MMC 22G.070.070 and satisfies the requirements for a conditional use permit in MMC 22G.070.050 and

other applicable requirements, the conditional use permit application shall be approved. (Ord. 2852 § 10 (Exh. A), 2011).

22G.070.090 Reconsideration and optional advisory review process.

(1) Reconsideration of the examiner's ruling may be requested as provided in MMC 22G.010.190, 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.

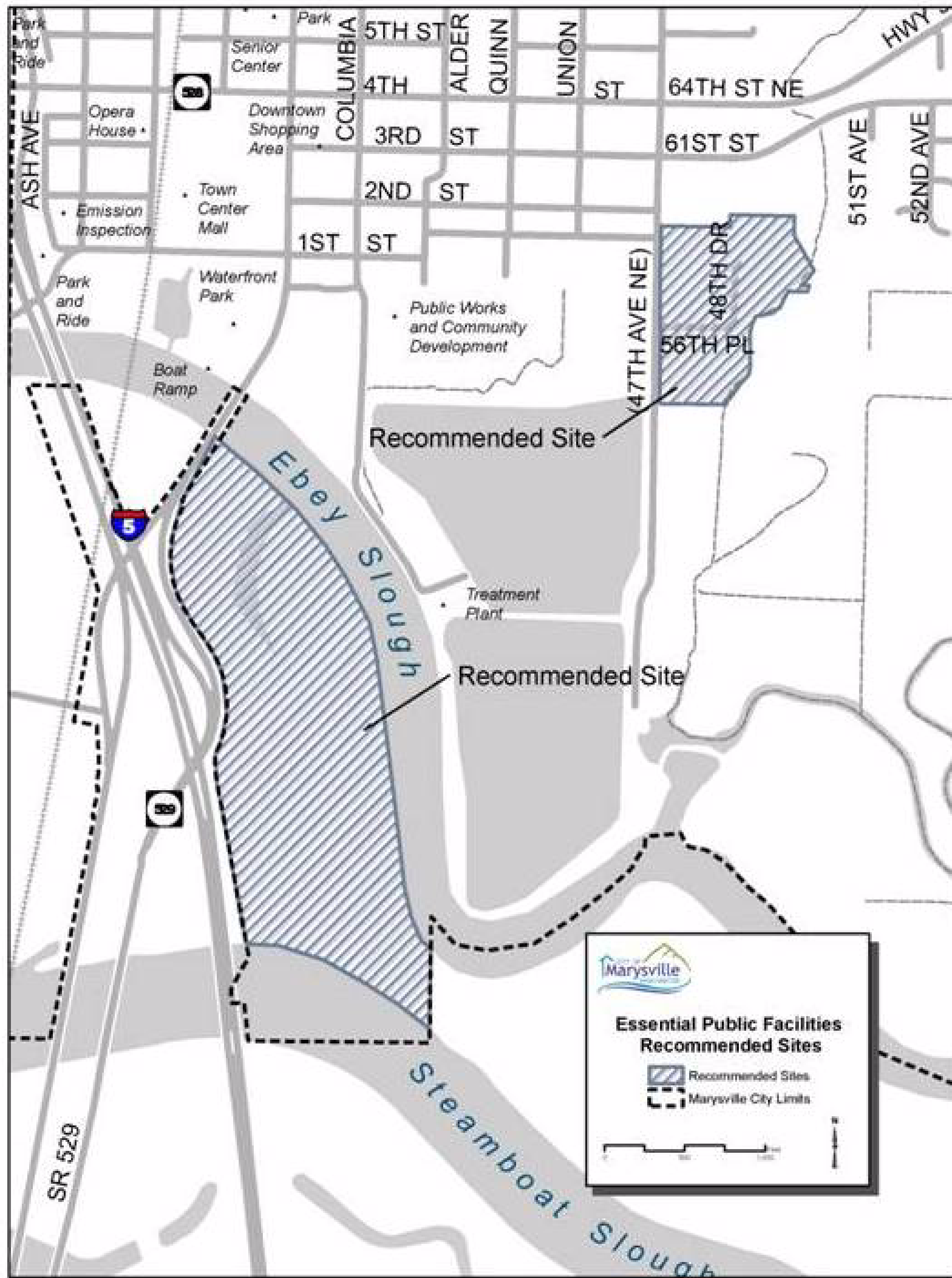
(3) Upon receipt of the advisory board's recommendation, the examiner shall have an opportunity to reconsider the decision in accordance with MMC 22G.010.190.

(4) If the project sponsor demonstrates compliance with the review criteria listed in MMC 22G.070.070 and satisfies the requirements for a conditional use permit in MMC 22G.010.430, and other applicable requirements, the conditional use permit application shall be approved. (Ord. 2852 § 10 (Exh. A), 2011).

22G.070.100 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. 2852 § 10 (Exh. A), 2011).



(Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.080

PLANNED RESIDENTIAL DEVELOPMENTS

Sections:

22G.080.010 Purpose.
22G.080.020 Applicability.
22G.080.030 Planned residential development – Site qualifications.
22G.080.040 Permitted/conditional uses – Ratio of housing types.
22G.080.050 Procedures for review and approval.
22G.080.060 Required elements of PRD site plans.
22G.080.070 Development standards.
22G.080.080 Modification of development regulations.
22G.080.090 Bonuses.
22G.080.100 Open spaces.
22G.080.110 Preservation of existing features.
22G.080.120 Perpetual maintenance of open space and common facilities.

22G.080.010 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 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. 2852 § 10 (Exh. A), 2011).

22G.080.020 Applicability.

An applicant may request to utilize the PRD provisions if the site meets the site qualification criteria of this chapter and concurrently utilizes a land division process as specified in MMC 22G.080.040. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.030 Planned residential development – Site qualifications.

To utilize the PRD provisions contained in this chapter, a site must be at least one acre gross area and must be zoned residential. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.040 Permitted/conditional uses – Ratio of housing types.

The following uses are permitted within a PRD: single-family dwellings, duplexes, attached single-family dwellings or multifamily dwellings, and recreational facilities; provided, that in single-family zoned PRDs, no more than six units may be attached as one building; and provided further, that the mix of housing types 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 single-family residential zoned property within a 300-foot radius, as a whole, are multiple-family dwellings. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.050 Procedures for review and approval.

The PRD review and approval process shall occur concurrently with the underlying land use action. Underlying land use actions which can utilize the PRD process include binding site plans, short subdivisions, and subdivisions. The decision-making authority for the underlying land use action shall also be the decision-making authority for the PRD.

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 this chapter. 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).

(1) Site Plan. A site plan meeting the requirements of this chapter, Chapters 22C.010, 22C.020, 22G.090 and 22G.100 MMC shall be submitted with all applications for a PRD. The site plan may

be approved, approved with conditions, or denied by the city. Specific development regulations may be modified in accordance with this chapter and special requirements may be applied to the property within the PRD. Modifications and special requirements shall be specified in the approval and shown on the approved site plan.

(2) Decision Criteria. It is the responsibility of the applicant to demonstrate the criteria have been met. The city may place conditions on the PRD approval in order to fulfill the requirements and intent of the city's development regulations, comprehensive plan, and subarea plan(s). The following criteria must be met for approval of a PRD to be granted:

(a) Consistency with Applicable Plans and Laws. The development will comply with all applicable provisions of state law, the Marysville Municipal Code, comprehensive plan, and any applicable subarea plan(s).

(b) Quality Design. The development shall include high quality architectural design and well conceived placement of development elements including the relationship or orientation of structures.

(c) Design Criteria. Design of the proposed development shall achieve two or more of the following results above the minimum requirements of this title and Chapters 22G.090 and 22G.100 MMC; provided, that such design elements may also be used to qualify for residential density incentives as provided in Chapter 22C.090 MMC.

(i) Improving circulation patterns or the screening of parking facilities;

(ii) Minimizing the use of impervious surfacing materials;

(iii) Increasing open space or recreational facilities on-site;

(iv) Landscaping, buffering, or screening in or around the proposed PRD;

(v) Providing public facilities;

(vi) Preserving, enhancing, or rehabilitating natural features of the subject property such as significant woodlands, wildlife habitats or streams;

(vii) Incorporating energy-efficient site design or building features;

(viii) Incorporating a historic structure(s) or a historic landmark in such a manner as preserves its historic integrity and encourages adaptive reuse.

(d) Public Facilities. The PRD shall be served by adequate public facilities including streets, bicycle and pedestrian facilities, fire protection, water, storm water control, sanitary sewer, and parks and recreation facilities.

(e) When PRDs are located within or adjacent to single-family residential zones and are, or 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. If attached dwellings and multiple-family dwellings are part of the PRD they will be dispersed throughout the project to create an integrated mix of housing types.

(f) Perimeter Design. The perimeter of the PRD shall be compatible in design, character, and appearance with the existing or intended character of development adjacent to the subject property and with the physical characteristics of the subject property.

(g) Open Space and Recreation. Open space and recreation facilities shall be provided and effectively integrated into the overall development of a PRD and surrounding uses.

(h) Streets, Sidewalks and Parking. Existing and proposed streets and sidewalks within a PRD shall be suitable and adequate to carry anticipated motorized and pedestrian traffic within the proposed project and in the vicinity of the subject property. A safe walking path to schools shall be provided if the development is within one-quarter mile of a school (measured via existing or proposed streets or pedestrian corridors) or if circumstances otherwise warrant. Adequate parking shall be provided to meet or exceed the requirements of the MMC.

(i) Landscaping. Landscaping shall be provided for public and semi-public spaces and shall integrate them with private spaces. Landscaping shall create a pleasant streetscape and provide connectivity between homes and common areas, using trees, shrubs, and groundcover throughout the development and providing for shade and visual relief while maintaining a clear line of sight throughout the public and semi-public spaces.

(j) Maintenance Provisions. A means of maintaining all common areas, such as a homeowners' association, shall be established, and legal instruments shall be executed to provide maintenance funds and enforcement provisions.

(3) Amendments. An approved PRD may be amended through the provisions of Chapters 22G.090 and 22G.100 MMC and Chapter 58.17 RCW.

(4) Duration of Approval. The duration of approval for a PRD shall be the same as the underlying land use action, plat, or binding site plan.

(5) Compliance. Any use of land which requires 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. 2852 § 10 (Exh. A), 2011).

22G.080.060 Required elements of PRD site plans.

All PRDs shall be subject to site plan approval as provided in MMC 22G.080.050. The following are minimum requirements for the site plan and supplemental material:

(1) 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;

(2) Where there is multiple ownership, a document satisfactorily assuring unified control through final approval and construction phases;

(3) Statement of intention to formally subdivide the property, if applicable;

(4) The total number of proposed dwelling units and a description of the housing type for each such unit;

(5) Probable building materials and treatment of exterior surfaces on all proposed multiple-family structures;

(6) Conceptual drainage plans demonstrating feasibility of the proposed facilities;

(7) Project staging or phases, if any;

(8) Provision for phasing out nonconforming uses;

(9) The calculation of the housing-mix ratio within a 300-foot radius of the project, as required by MMC 22G.080.040;

(10) Restrictive covenants as required by MMC 22G.080.120 and including provisions to address parking enforcement, together with a statement from a private attorney as to the adequacy of the same to fulfill the requirements of this chapter;

(11) Calculation of total project land area, gross project area, and net project density;

(12) 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;

(13) A site plan drawing, 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;

(14) 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;

(15) Landscaping plan, including plant locations and species size at planting, together with location and typical side view of perimeter fencing or berms, if any;

(16) 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;

(17) Plans for open space improvements, if any;

(18) Plans for signing and lighting, including typical side view of entrance treatment and entrance signs;

(19) The location of all solid waste collection points, proposed meter locations, water mains, valves, fire hydrants, sewer mains, laterals, manholes, pump stations and other appurtenances;

(20) Itemization of the specific development regulations which are to be modified and special requirements which are to be applied to the property; and

(21) Such additional information as the city may deem necessary. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.070 Development standards.

PRDs which have lot(s) less than 5,000 square feet in any zone and multiple detached single-family dwellings on a single lot in any zone shall meet the requirements of this section:

(1) Accessory dwelling units shall not be permitted for single-family detached dwellings unless approved as part of the PRD site plan.

(2) Each single-family detached unit shall have at least 200 square feet of private open space set aside as private space for that dwelling unit. No dimension of such open space shall be less than 10 feet. The open space does not need to be fenced or otherwise segregated from other dwellings or open space in the development unless so conditioned through the approval process.

(3) Common open space is required pursuant to MMC 22C.010.320, 22C.020.270 or 22G.080.100, whichever provides the greater open space. The common open space must be arranged to maximize usability.

(4) At least 25 percent of the dwellings on lots less than 5,000 square feet must have vehicle access points via any combination of the following, unless steep slopes or site-specific constraints preclude meeting this requirement:

(a) Shared or single-car-width driveway.

(b) Alley, auto court, or other method of accessing dwellings other than direct street access. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.080 Modification of development regulations.

The city's standard development regulations shall be modified for a PRD as provided in this section:

(1) Density, Dimension, and Parking. The standard development regulations shall apply to all lots and development in a PRD except as specifically modified below and as provided in the design review standards in Chapters 22C.010 and 22C.020 MMC.

Modified Density, Dimension and Parking Table

	PRD
Density: Dwelling unit/acre	As allowed per the underlying zone
Maximum density: [1]	As allowed per the underlying zone or modified through the residential density incentives in Chapter 22C.090 MMC
Minimum street setback: [2]	10 feet
Minimum side yard setback:	5 feet (if no lot line between homes, 10 feet separation required)
Minimum rear yard setback: [3]	10 feet (if no lot line between homes, 20 feet separation required)
Base height:	As allowed per the underlying zone
Maximum building coverage:	No maximum building coverage
Maximum impervious surface:	70 percent
Minimum lot area: [4]	3,500 square feet
Minimum lot width: [5]	30 feet
Minimum driveway length: [6]	20 feet
Minimum parking: [7]	3 stalls per detached single-family dwelling

Development Conditions:

1. Density may be increased consistent with density incentives, Chapter 22C.090 MMC.
2. Porches may extend as close as seven feet from the street, sidewalk, right-of-way, or public/community improvement.
3. Consistent with MMC 22C.010.310(3), rear yard setbacks may be reduced to zero feet for garages if an alley is provided. Living space is allowed up to the rear property line or alley when above a garage. If the garage does not extend to the property line, the dwelling unit above the garage may be extended to the property line.
4. No minimum lot area for multifamily zoned property. In single-family zones, the minimum lot area/dwelling unit area may be reduced to 2,000 square feet for attached single-family dwellings, and duplexes require 5,250 feet per two-dwelling duplex.
5. Minimum lot width may be reduced to 25 feet for zero lot line attached single-family dwellings.
6. Minimum driveway length may be reduced in accordance with MMC 22C.010.310.
7. Parking for multifamily and attached single-family will be computed pursuant to Chapter 22C.130 MMC, Parking and Loading. Detached single-family dwellings will provide three stalls per dwelling unit. Two of the stalls must be on the site and readily available to the dwelling unit. The third stall may be on-street parking or provided nearby to the dwelling.

(2) Street Standards. The city's PRD street standards, as set forth in the engineering development and design standards (EDDS), apply to small lot developments and may be modified as provided below.

The "PRD Access Street with Parking" and "PRD Access Street" road sections may be used in a PRD and modified as follows:

(a) "PRD Access Street with Parking" standard is required for developments containing 20 or more dwellings. For developments containing less than 20 dwelling units the "PRD Access Street" standard may be used, provided parking requirements are met and community parking is provided at a ratio of at least one parking space for each four dwelling units.

(b) Modifications to the "PRD Access Street with Parking" and "PRD Access Street" standards may be requested for sidewalks, planter strips, and on-street parking. The burden to clearly demonstrate the proposed modification meets the

requirements of this section is the applicant's. (Note: it is not likely multiple reductions will be allowed along a single section of road.) If requesting a modification, the applicant shall submit an integrated pedestrian travel, landscape and parking plan as well as other information to demonstrate:

(i) Safe, aesthetically pleasing pedestrian travel is provided throughout the development.

(ii) Pedestrian travel within the development shall be tied to pedestrian travel routes outside the development, actual and/or planned.

(iii) Reduction of planter strips shall require additional equivalent or greater landscaping to benefit the development.

(iv) Reduction of on-street parking shall generally require alley access and community parking be provided, such as bump-out parking on the street at a ratio in excess of one parking spot for each four dwelling units.

(v) Any proposed modifications shall allow for efficient flow and movement of automobiles and pedestrians without negatively altering or constraining their movement.

(3) Open Space. Open space requirements may be modified consistent with this chapter.

(4) Additional Modifications. An applicant may request additional dimensional, open space, street, and design standard modifications beyond those provided in this section. Granting of the requested modification(s) will be based on innovative and exceptional architectural design features and/or innovative and exceptional site design and layout that contribute to achieving the purpose of this chapter. (Street modifications may include the elimination of sidewalks on one or both sides, when alternate safe pedestrian connections are provided, and/or the movement of planter strips behind the sidewalk or the elimination of planter strips altogether, when the streetscape is enhanced to provide for a significantly more pleasing appearance.)

(5) Other Development Code Modifications. Modification of development code requirements beyond those provided for in this section may be requested through the variance process set forth in the MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.090 Bonuses.

The city's decision-making authority may allow an increase in the net density of the project in compliance with the residential density incentive requirements of Chapter 22C.090 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.100 Open spaces.

(1) A minimum of 15 percent of the net 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. Critical areas and buffers may be used to satisfy up to 10 percent of this requirement. Fencing and/or landscaping shall separate, while maintaining visual observability of, recreation areas from public streets, parking areas and driveways.

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

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

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

(a) Be of a grade and surface suitable for recreation;

(b) Be on the site of the proposed development;

(c) Be one continuous parcel if less than 3,000 square feet in size, not to be located in the front yard setback;

(d) Have no dimensions less than 30 feet (except trail segments);

(e) Be situated and designed to be observable by the public; and

(f) Be accessible and convenient to all residents within the development. (Ord. 2852 § 10 (Exh. A), 2011).

22G.080.110 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. 2852 § 10 (Exh. A), 2011).

22G.080.120 Perpetual maintenance of open space and common facilities.

Before final approval is granted, the applicant shall submit to the city, for its approval, covenants, deed restrictions, homeowners' association bylaws, and/or other documents providing for preservation and maintenance of all common open space, 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 shall be approved by the city at the time of initial occupancy. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.090

SUBDIVISIONS AND SHORT SUBDIVISIONS

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Article I. General Provisions

22G.090.010 Title.

This chapter shall be known as the subdivision ordinance of the city. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.020 Authority.

These regulations are authorized by Chapter 58.17 RCW and other applicable state laws and city ordinances. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.030 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 schools 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 to the enforcement of these regulations by its officers, employees or agents. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.040 Jurisdiction.

These regulations shall apply to all divisions of all lands within the incorporated area of the city. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.050 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 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 (Chapter 22G.100 MMC);

(vi) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers is to be placed upon the land and when a binding site plan has been approved by the city for the use of the land, pursuant to Chapter 22C.230 MMC, Mobile Home Parks, and Chapter 22C.240 MMC, Recreational Vehicle Parks;

(vii) A division for the purpose of leasing land for facilities providing personal wireless service while used for that purpose.

(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 (Chapter 22G.110 MMC);

(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 22C.230 MMC, Mobile Home Parks, and Chapter 22C.240 MMC, Recreational Vehicle Parks;

(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;

(viii) A division of land for city governmental purposes limited to the acquisition of land for right-of-way and detention facilities; and

(ix) A division for the purpose of leasing land for facilities providing personal wireless service while used for that purpose.

(3) The exemptions provided in this section shall not be construed as exemptions from compliance with all other applicable standards required by the city and state. (Ord. 2852 § 10 (Exh. A), 2011).

Article II. Preliminary Subdivision Review

22G.090.060 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, and 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) If low impact development techniques, including bioretention, dispersion or infiltration, are proposed to manage storm water, the applicant shall provide a site assessment consistent with the requirements in MMC 14.15.062.

(c) The applicant shall also provide a legal description of the property and a vicinity map. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.070 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 owner's 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 community development 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, watercourses, 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 22G.090.560, 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 similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.080 Review process – Reports by city departments.

(1) If the application meets all the requirements specified in MMC 22G.090.070, then the application shall be deemed complete and the community development 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 community development 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 the state highway. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.090 Review process – Staff report – Requirements.

The community development 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. 2852 § 10 (Exh. A), 2011).

22G.090.100 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. 2852 § 10 (Exh. A), 2011).

22G.090.110 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 owner's 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 community development 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. 2852 § 10 (Exh. A), 2011).

22G.090.120 Public hearing – Hearing examiner duty.

After notice of the public hearing has been given per MMC 22G.090.110, the hearing examiner will consider the proposed subdivision and its compliance with MMC 22G.090.130. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.130 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 have 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 Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(7) Open Space. Evaluation of all impacts and provision for open space as defined in Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(9) Public Services. Evaluation of all impacts and provisions made for mitigation of impacts on public services including streets, all public utilities, and fire and police protection as defined in Article V of this chapter, Land Division Requirements;

(10) Floodplain. Identification of subdivisions proposed in the floodplain and compliance with requirements of this chapter and Chapter 22E.020 MMC, Floodplain Management. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.140 Hearing examiner decision – Requirements.

(1) If the hearing examiner finds that appropriate provisions have been made according to MMC 22G.090.130, 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 22G.090.130, 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 Chapter 22G.010 MMC, Article VIII, Appeals. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.150 Hearing examiner decision – Records.

All records of the hearing examiner's decision concerning a preliminary subdivision shall be open to public inspection at the community development department offices. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.160 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. 2852 § 10 (Exh. A), 2011).

22G.090.170 Preliminary and final subdivision approval – Terms.

(1) Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within 90 days from the date of filing a complete application unless the applicant consents to an extension of such time period or the 90-day limitation is extended to include up to 21 days as specified under RCW 58.17.095(3); provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement.

(2) Final subdivisions shall be approved, disapproved, or returned to the applicant within 30 days from the date of filing thereof, unless the applicant consents to an extension of such time period.

(3) Final subdivision approval must be acquired in accordance with RCW 58.17.140, as follows:

(a) Within five years of the date of preliminary approval, if the date of preliminary approval is on or after January 1, 2015. An extension may be granted by the community development director 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 community development director requesting the extension at least 30 days before expiration of the five-year period.

(b) Within seven years of the date of preliminary approval, if the date of preliminary approval is on or before December 31, 2014.

(c) Within 10 years of the date of preliminary approval, if the project is not subject to requirements adopted under Chapter 90.58 RCW and the date of preliminary plat approval is on or before December 31, 2007.

(4) If final subdivision approval is not obtained within the time frames outlined in subsection (3) of this section, the preliminary subdivision approval is void. (Ord. 2981 § 37, 2015).

22G.090.180 Substantial revisions of county-approved preliminary plats.

The hearing examiner may determine that applications for substantial revisions of preliminary plats that were approved by Snohomish County be approved, based on the following circumstances and conditions:

(1) The preliminary plat was approved by Snohomish County in compliance with all county land use requirements that were applicable when the complete application was submitted to the county;

(2) All conditions of county approval have been satisfied, including construction and/or installation of all required infrastructure;

(3) The property owner/developer has provided a sworn and notarized declaration that the preliminary plat approved by the county can no longer be developed due to adverse market conditions and the inability to secure financing;

(4) The city council and the property owner/developer have entered into a development agreement pursuant to Chapter 36.70B RCW, which provides for the property owner/developer to retain vested rights for compliance with specified, limited county land use regulations in consideration of construction and/or installation of all county-required infrastructure and submittal to the city of a new preliminary plat application that complies with all other city land use regulations; and

(5) The city's SEPA responsible official has determined that the new preliminary plat application and development agreement comply with the State Environmental Policy Act. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.185 Revisions after preliminary subdivision approval.

Revisions of approved preliminary subdivisions prior to installation of improvements and recording of the final subdivision shall be processed pursuant to MMC 22G.010.260 or 22G.010.270. (Ord. 2981 § 38, 2015).

Article III. Final Subdivision Review

22G.090.190 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. 2852 § 10 (Exh. A), 2011).

22G.090.200 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 community development 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);

(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. 2852 § 10 (Exh. A), 2011).

22G.090.210 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 are 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

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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. 2852 § 10 (Exh. A), 2011).

22G.090.220 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 rerouting 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.

(2) 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)

(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 22 of the Marysville Municipal Code is expressly prohibited except in compliance with Title 22 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__.

____

Community Development 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. 2852 § 10 (Exh. A), 2011).

22G.090.230 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. 2852 § 10 (Exh. A), 2011).

22G.090.240 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. 2852 § 10 (Exh. A), 2011).

22G.090.250 Documents required – Survey.

The final plat must be accompanied by a complete survey in accordance with MMC 22G.090.780. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.260 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 community development department. The community development 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 community development 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 the city council.

(3) If either the community development director or the city engineer determines 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 community development director and the city engineer, upon written request of the applicant.

(4) Pursuant to the requirements of RCW 58.17.150, neither the community development 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. 2852 § 10 (Exh. A), 2011).

22G.090.270 Review process – Action by city council.

(1) For the purpose 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. 2852 § 10 (Exh. A), 2011).

22G.090.280 (Reserved).

(Ord. 2981 § 39, 2015; Ord. 2852 § 10 (Exh. A), 2011).

22G.090.290 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 black line copy. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.300 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. 2852 § 10 (Exh. A), 2011).

Article IV. Short Subdivision Review

22G.090.310 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 article. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.320 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, and 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. 2852 § 10 (Exh. A), 2011).

22G.090.330 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 owner's 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 community development 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, watercourses, 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. 2852 § 10 (Exh. A), 2011).

22G.090.340 Review process – City department action – State action.

(1) If the preliminary short subdivision application meets all the requirements specified in MMC 22G.090.330 then the application shall be deemed complete and the community development department shall circulate copies of the short subdivision application to relevant city departments who shall review the short subdivision and furnish the community development 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 recommendations 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 community development 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 community development 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 the state highway. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.350 Review process – State Environmental Policy Act.

Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060 is categorically exempt from State Environmental Policy Act review in accordance with WAC 197-11-800(6), but not including further short subdivision or short platting within a plat or subdivision previously exempted. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.360 Review process – Elements considered.

The following shall provide a basis for approval or disapproval of a 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 have 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 Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(7) Open Space. Evaluation of all impacts and provision for open space as defined in Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(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 Article V of this chapter, Land Division Requirements;

(10) Floodplain. Identification of short subdivisions proposed in the floodplain and compliance with requirements of this title and Chapter 22E.020 MMC, Floodplain Management;

(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. 2852 § 10 (Exh. A), 2011).

22G.090.370 Review process – Decision by city.

(1) If the city engineer and community development director find that appropriate provisions have been made according to MMC 22G.090.360, then the short subdivision may be granted preliminary approval. If the city engineer and community development director find that the short subdivision does not make the appropriate provision for MMC 22G.090.360, 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. 2852 § 10 (Exh. A), 2011).

22G.090.380 Preliminary and final short subdivision approval – Terms.

(1) Preliminary short subdivisions and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within 90 days from the date of filing a complete application unless the applicant consents to an extension of such time period or the 90-day limitation is extended to include up to 21 days as specified under RCW 58.17.095(3); provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement.

(2) Final short subdivisions shall be approved, disapproved, or returned to the applicant within 30 days from the date of filing thereof, unless the applicant consents to an extension of such time period.

(3) Final short subdivision approval must be acquired in accordance with RCW 58.17.140, as follows:

(a) Within five years of the date of preliminary approval, if the date of preliminary approval is on or after January 1, 2015. An extension may be granted by the community development director 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 community development director requesting the extension at least 30 days before expiration of the five-year period.

(b) Within seven years of the date of preliminary approval, if the date of preliminary approval is on or before December 31, 2014.

(c) Within 10 years of the date of preliminary approval, if the project is not subject to requirements adopted under Chapter 90.58 RCW and the date of preliminary plat approval is on or before December 31, 2007.

(4) If final short subdivision approval is not obtained within the time frames outlined in subsection (3) of this section, the preliminary subdivision approval is void. (Ord. 2981 § 40, 2015; Ord. 2894 § 4, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22G.090.385 Revisions after preliminary short subdivision approval.

Revisions of approved preliminary short subdivisions prior to installation of improvements and recording of the final short subdivision shall be processed pursuant to MMC 22G.010.260 or 22G.010.270. (Ord. 2981 § 41, 2015).

22G.090.390 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. 2852 § 10 (Exh. A), 2011).

22G.090.400 Final submittal – Short plat.

The final short plat drawings shall be on Mylar drafting film having the dimensions of 18 inches by 24 inches. Information required shall include:

(1) The date, north arrow, and appropriate engineering scale as approved by the community development 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);

(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 rerouting 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 22 of the Marysville Municipal Code.

(ii) The sale or lease of less than a whole lot in any subdivision platted and filed under Title 22 of the Marysville Municipal Code is expressly prohibited except in compliance with Title 22 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__.

____

Community Development 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. 2852 § 10 (Exh. A), 2011).

22G.090.410 Final submittal – Vicinity map.

A vicinity sketch clearly identifying the location of the property must be prepared and completed. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.420 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. 2852 § 10 (Exh. A), 2011).

22G.090.430 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 as 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 names of the owners signing the declaration. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.440 Final submittal – Legal descriptions.

All final short subdivision applications shall have a legal description of the entire parcel to be short subdivided and each lot, easement and tract to be created and shall be on forms acceptable to the city and stamped "Registered Land Surveyor." (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.450 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 22G.090.400(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. 2852 § 10 (Exh. A), 2011).

22G.090.460 Final submittal – Contiguous parcel owners.

Name and address of contiguous parcel owners on the property owner's form must be prepared and completed. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.470 Final submittal – Survey.

Final short plats must be accompanied by a complete survey in accordance with MMC 22G.090.780. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.480 Final approval – Procedure.

(1) The community development 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 community development director and public works director shall inscribe and execute their written approval on the face of the plat map. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.490 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. 2852 § 10 (Exh. A), 2011).

22G.090.500 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. 2852 § 10 (Exh. A), 2011).

Article V. Land Division Requirements

22G.090.510 Standards generally.

The following standards set forth in this chapter are to be used for division and redivisions of land. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.520 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, drainageways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, school facilities and other standards as may be required by this title. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.530 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 is reasonably necessary and is a direct result of the proposal and is 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 22D.010 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.540 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. 2852 § 10 (Exh. A), 2011).

22G.090.550 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 22G.090.820. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.560 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 22E.010 MMC, Critical Areas Management. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.570 Landscaping requirements.

Landscaping shall be in conformance with Chapter 22C.120 MMC, Landscaping and Screening; 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) 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 regard 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 dripline 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. 2852 § 10 (Exh. A), 2011).

22G.090.580 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 community development director shall be responsible for determining the fencing requirements for short subdivisions. The community development director's decision may be appealed to the hearing examiner, in accordance with Chapter 22G.010 MMC, Article VIII, Appeals.

(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. 2852 § 10 (Exh. A), 2011).

22G.090.590 Floodplain requirements.

Land identified in "The Flood Insurance Study for the City of Marysville" dated September 16, 2005, as amended, with accompanying flood insurance rate maps (FIRM), as amended, shall not be subdivided unless the requirements of floodplain regulations are met. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.600 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 and loop access roads 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 or 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. 2852 § 10 (Exh. A), 2011).

22G.090.610 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. 2852 § 10 (Exh. A), 2011).

22G.090.620 Drainage improvements.

(1) Drainage improvements shall be required as specified in MMC Title 14. Use of low impact development methods to mimic predevelopment hydrologic functions and manage storm water through natural processes is encouraged.

(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. 2852 § 10 (Exh. A), 2011).

22G.090.630 Sewer improvements.

All sewer improvements will be per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.640 Water improvements.

All water improvements will be per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.650 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. 2852 § 10 (Exh. A), 2011).

22G.090.660 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. 2852 § 10 (Exh. A), 2011).

22G.090.670 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. Provision of adequate solar access should be considered during lot design.

(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 22G.090.820.

(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. 2870 § 8, 2011; Ord. 2852 § 10 (Exh. A), 2011).

22G.090.680 Utilities improvements.

All utility facilities shall be per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.690 Easements.

Permanent easements shall be provided for utilities and other public services identified at the time of preliminary plat approval. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.700 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 22D.010 MMC. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.710 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. 2852 § 10 (Exh. A), 2011).

22G.090.720 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. 2852 § 10 (Exh. A), 2011).

22G.090.730 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. 2852 § 10 (Exh. A), 2011).

22G.090.740 Improvements – Acceptance.

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. 2852 § 10 (Exh. A), 2011).

22G.090.750 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, security for performance in accordance with the provisions of Chapter 22G.040 MMC may be supplied. The duration for any such security for performance shall not be longer than one year.

(2) Security for performance shall not be released until all applicable departments responsible for acceptance and maintenance of improvements have approved said release. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.760 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 requirement for curbs and gutters may be waived by the city engineer if bioretention facilities are approved for managing storm water runoff from the street. Flow through curbs may be required by the city engineer. 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 water management facility completion;

(4) Roadway and frontage improvement 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. 2852 § 10 (Exh. A), 2011).

22G.090.770 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 developer shall provide the city with security for maintenance in accordance with the provisions of Chapter 22G.040 MMC. The warranty period for the security for maintenance shall be a minimum of two years.

(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 or security for performance and security for maintenance have been provided and accepted by the city. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.780 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. 2852 § 10 (Exh. A), 2011).

22G.090.790 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. 2852 § 10 (Exh. A), 2011).

22G.090.800 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 community development 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. 2852 § 10 (Exh. A), 2011).

Article VI. Tax Segregated Lots

22G.090.810 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 22G.090.820 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 22G.090.820(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. 2852 § 10 (Exh. A), 2011).

Article VII. Modifications and Variances

22G.090.820 Modifications and variances.

(1) Applications for variances are limited to the following sections of this title: MMC 22G.090.550, 22G.090.600(6), 22G.090.670 and 22G.090.810. 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 community development 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 22G.090.550 and 22G.090.670 shall be heard by the hearing examiner or community development director per subsections (2) and (3) of this section. The hearing examiner shall hear requests for variances made pursuant to MMC 22G.090.600(6) and 22G.090.810.

(5) In order for the community development 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, or 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 subdivision approval as is set forth in Article II of this chapter, Preliminary Subdivision Review, and Article IV of this chapter, Short Subdivision Review. (Ord. 2852 § 10 (Exh. A), 2011).

Article VIII. Appeals

22G.090.830 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 22G.010 MMC, Article VIII, Appeals. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.840 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 22G.010.560.

(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. 2852 § 10 (Exh. A), 2011).

22G.090.850 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. 2852 § 10 (Exh. A), 2011).

Article IX. Enforcement and Penalties

22G.090.860 Delegation of responsibilities.

Whenever the terms of this title specifically authorize the community development director or the city engineer to perform specific acts, the community development director and city engineer are authorized to delegate those specific responsibilities to members of their respective staffs. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.870 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. 2852 § 10 (Exh. A), 2011).

22G.090.880 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 attorneys' 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 attorneys' fees. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.890 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 provisions of this title. Should any division or redivision of land be filed without such certification, as set forth in Article III of this chapter, Final Subdivision Review, and Article IV of this chapter, Short Subdivision Review, 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. 2852 § 10 (Exh. A), 2011).

22G.090.900 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 attorneys' fees, shall be taxed against the violator. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.910 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. 2852 § 10 (Exh. A), 2011).

22G.090.920 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. 2852 § 10 (Exh. A), 2011).

22G.090.930 Rules and regulations.

The city's community development director is authorized to promulgate rules and regulations which are consistent with the terms of this title. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.940 Severability.

If any provision of this chapter shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this chapter would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this chapter shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 2852 § 10 (Exh. A), 2011).

22G.090.950 Savings.

Nothing contained in this chapter 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 chapter. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.100

BINDING SITE PLAN

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Article I. General Provisions

22G.100.010 Title for citation.

This chapter shall be known as the binding site plan ordinance of the city. The requirements set forth in this chapter are applicable to all divisions of land zoned business, commercial and industrial within the city. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.020 Authority.

These regulations are authorized by Chapter 58.17 RCW and all other applicable state laws and city ordinances. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.030 Purpose.

It is the intent and purpose of this chapter 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. 2852 § 10 (Exh. A), 2011).

22G.100.040 Jurisdiction.

These regulations shall apply to all properties which are exempt from the city's subdivision code pursuant to RCW 58.17.040(4) or (7) and which are being divided through the binding site plan process in business, commercial, and industrial zones or in a residential zone if the division complies with the planned residential development provisions of Chapter 22G.080 MMC and with MMC 22G.100.070. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.050 Applicability.

Any person, firm, corporation or other entity which does not divide their property per the city's subdivision ordinance and seeks to divide business, commercial, industrial or residential zoned land for the purpose of sale or transfer of ownership is required to apply for and complete a binding site plan as is required by this title. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.060 Administration.

The director and the city engineer shall have the duty and responsibility of administering the provisions of this title. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.070 Inscription.

All binding site plans exempt under RCW 58.17.040(7) shall have the following inscription:

> All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.

(Ord. 2852 § 10 (Exh. A), 2011).

Article II. Preliminary Review Process

22G.100.080 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, and 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. 2852 § 10 (Exh. A), 2011).

22G.100.090 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 community development 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, watercourses, 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. 2852 § 10 (Exh. A), 2011).

22G.100.100 Action by city departments.

(1) Action by the Community Development Department. If the binding site plan application is complete and the fee is paid, the community development department shall accept the application and conduct a city review.

(2) Action by Other City Departments. The community development 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 community development 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 relate 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 deter-

mination of whether the proposed binding site plan complies with the SEPA requirements.

(f) Critical Areas. Binding site plans shall comply with the land division requirements of MMC 22E.010.350.

(4) Notice Requirements. Notice shall be given pursuant to Chapter 22G.010 MMC.

(5) Preliminary Decision. Following the comment period provided in Chapter 22G.010 MMC, the director shall:

(a) Review the information in the record and render a decision pursuant to this chapter; or

(b) Forward the application to the hearing examiner for public hearing, if:

(i) Adverse comments are received from at least five persons or agencies during the comment period, which comments are relevant to the decision criteria in subsection (3) of this section or state specific reasons why a hearing should be held; or

(ii) The director determines a hearing is necessary to address issues of vague, conflicting, or inadequate information, or issues of public significance. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.110 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. 2852 § 10 (Exh. A), 2011).

22G.100.120 Final binding site plan approval – Term.

The applicant must complete all conditions of preliminary approval within five years following the date of preliminary approval, after which the preliminary approval is void. An extension may be granted by the community development director 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 community development director requesting the extension at least 30 days prior to the expiration of the original time period.

Exception: For binding site plans which obtained preliminary binding site plan approval on or before December 31, 2007, and are not subject to the requirements adopted under Chapter 90.58 RCW, a final binding site plan meeting all requirements of this chapter shall be submitted for approval within nine years of the date of preliminary binding site plan approval pursuant to RCW 58.17.140. For binding site plans which obtained preliminary binding site plan approval between January 1, 2008, and December 31, 2014, a final binding site plan meeting all requirements of this chapter shall be submitted for approval within seven years of the date of preliminary binding site plan approval pursuant to RCW 58.17.140. An extension may be granted by the community development director for up to two years on binding site plans which received preliminary binding site plan approval between January 1, 2008, and December 31, 2014, if the applicant has attempted in good faith to submit the final binding site plan within the seven-year time period; provided, however, the applicant must file a written request with the community development director requesting the extension at least 30 days before expiration of the seven-year period. (Ord. 2894 § 5, 2012; Ord. 2852 § 10 (Exh. A), 2011).

22G.100.125 Revisions.

Revisions to an approved binding site plan shall be processed pursuant to MMC 22G.010.260 or 22G.010.270. (Ord. 2981 § 42, 2015).

Article III. Final Review Process

22G.100.130 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. 2852 § 10 (Exh. A), 2011).

22G.100.140 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 existing lots;

(3) The date, north arrow and appropriate engineering scale as approved by the community development 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);

(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 and 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, physical description, and date visited of monuments and all lot corners set and found;

(11) Existing structures, including any within 50 feet of existing or proposed lot lines, all setbacks, and all encroachments;

(12) Primary control points identified (i.e., calculated, found, established, or reestablished), basis of bearing, and horizontal and vertical datums as required 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 and landscaping area when required;

(15) Proposed use and location of buildings when required;

(16) Loading areas when required;

(17) Other restrictions and requirements as deemed necessary by the city;

(18) The applicable requirements of RCW 58.17.040(7) shall be met, including inscription of the following statement on the binding site plan:

> All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.

(Ord. 2852 § 10 (Exh. A), 2011).

22G.100.150 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 or 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 the community development director that the binding site plan conforms to all conditions of preliminary approval.

(4) Certification by the 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) Recording certificate for the county auditor. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.160 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. 2852 § 10 (Exh. A), 2011).

22G.100.170 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. 2852 § 10 (Exh. A), 2011).

22G.100.180 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 community development department. The community

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development 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 community development director and city engineer determine that the requirements are met, they shall approve the binding site plan.

(3) If either the community development director or the city engineer determines 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 community development 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 22G.090 MMC, Article III, Final Subdivision Review. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.190 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. 2852 § 10 (Exh. A), 2011).

22G.100.200 Development requirements.

All development must be in conformance with the recorded binding site plan. (Ord. 2852 § 10 (Exh. A), 2011).

Article IV. Standards

22G.100.210 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. 2852 § 10 (Exh. A), 2011).

22G.100.220 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. 2852 § 10 (Exh. A), 2011).

22G.100.230 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. 2852 § 10 (Exh. A), 2011).

22G.100.240 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. 2852 § 10 (Exh. A), 2011).

22G.100.250 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. 2852 § 10 (Exh. A), 2011).

22G.100.260 Floodplain regulations.

Land identified in "The Flood Insurance Study for the City of Marysville" dated September 16, 2005, as amended, with accompanying flood insurance rate maps (FIRM), as amended, shall not be subdivided unless the requirements of floodplain regulations are met. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.270 Landscaping.

Landscaping shall be required on all projects per zoning code requirements and city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.280 Parking.

The number of parking stalls shall be provided per Chapter 22C.130 MMC, Parking and Loading. All parking lots shall be paved and designed per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.290 Loading areas.

Loading areas shall be provided per Chapter 22C.130 MMC, Parking and Loading. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.300 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. 2852 § 10 (Exh. A), 2011).

22G.100.310 Signs.

All signs shall be per MMC Title 22 and Chapter 22C.160 MMC, Signs. All signing shall be approved by the city and integrated into the building design and the overall site plan. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.320 Lots.

(1) Lot arrangement shall be related to the natural features of the site and provide a suitable building site.

(2) Business, commercial, and industrial zoned lots in a binding site plan, generally, do not have to meet lot requirements of the zoning code, as long as the city has approved the overall binding site plan. Lots in residential zones in a BSP must comply with the zoning code regarding lot requirements. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.330 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. 2852 § 10 (Exh. A), 2011).

22G.100.340 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. 2852 § 10 (Exh. A), 2011).

22G.100.350 Access and circulation.

Ingress, egress and general circulation shall be approved by the city engineer. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.360 Street frontage.

Whenever a project is proposed on an existing public street, frontage shall be improved to current city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.370 Sewer improvements.

All sewer improvements shall be per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.380 Water improvements.

All water improvements shall be per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.390 Drainage improvements.

Drainage improvements shall be required as specified in MMC Title 14. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.400 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. 2852 § 10 (Exh. A), 2011).

22G.100.410 Utilities improvements.

All utility facilities shall be per city standards. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.420 Easements.

Permanent easements shall be provided for utilities and other public services identified at the time of preliminary site plan approval. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.430 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. 2852 § 10 (Exh. A), 2011).

22G.100.440 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. 2852 § 10 (Exh. A), 2011).

22G.100.450 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. 2852 § 10 (Exh. A), 2011).

22G.100.460 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. 2852 § 10 (Exh. A), 2011).

22G.100.470 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, security for performance in accordance with the provisions of Chapter 22G.040 MMC may be supplied. The duration for any such security for performance shall not be longer than one year.

(2) Security for performance shall not be released until all applicable departments responsible for acceptance and maintenance of improvements have approved said release. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.480 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. 2852 § 10 (Exh. A), 2011).

22G.100.490 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 the city with security for main-

tenance in accordance with the provisions of Chapter 22G.040 MMC. The warranty period for the security for maintenance shall be a minimum of two years.

(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 or security for performance and security for maintenance have been provided and accepted by the city. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.500 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. 2852 § 10 (Exh. A), 2011).

22G.100.510 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. 2852 § 10 (Exh. A), 2011).

Article V. Modifications

22G.100.520 Modification.

(1) Any applicant can request and make application to the city requesting a modification from the requirements of MMC 22G.100.230 through 22G.100.330.

(2) For a modification of 25 percent or less, it shall be considered by the community development 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 community development 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. 2852 § 10 (Exh. A), 2011).

Article VI. Appeals

22G.100.530 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 22G.010.560.

(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. 2852 § 10 (Exh. A), 2011).

Article VII. Enforcement and Penalties

22G.100.540 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 chapter. The city attorney is authorized to commence an action to restrain and enjoin a violation of this chapter and compel compliance with the provisions of this chapter. The costs of such action shall be taxed against the violator. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.550 Violation – Nuisance declared.

Any violation of the provisions of this chapter 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 attorneys' fees, shall be taxed against the violator. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.560 Provisions not exclusive.

Penalty and enforcement provisions in this chapter are not exclusive, and the city may pursue any remedy or relief it deems appropriate. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.570 Severability.

If any provision of this chapter shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this chapter would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this chapter shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 2852 § 10 (Exh. A), 2011).

22G.100.580 Savings.

Nothing contained in this chapter 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 chapter. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.110

BOUNDARY LINE ADJUSTMENTS

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Article I. General Provisions

22G.110.010 Title for citation.

This chapter shall be known as the boundary line adjustment ordinance of the city of Marysville, and the requirements set forth in this chapter are applicable to all boundary line adjustments. (Ord. 2852 § 10 (Exh. A), 2011).

22G.110.020 Jurisdiction.

These regulations shall apply to all boundary line adjustments within the incorporated area of the city of Marysville. (Ord. 2852 § 10 (Exh. A), 2011).

22G.110.030 Purpose.

(1) The purpose of this chapter 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 ensuring 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 chapter 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 chapter to place the obligation of complying with its requirements upon the property owner and applicant, and no provision or term used in this chapter 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 chapter shall be discretionary and not mandatory.

(4) 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, employees or agents, for any injury or damage resulting from the failure to comply with 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 by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees, or agents. (Ord. 2852 § 10 (Exh. A), 2011).

22G.110.040 Administration.

The community development director shall have the duty and responsibility of administering the provisions of this chapter with the authority to promulgate rules and regulations to implement and administer this chapter. (Ord. 2852 § 10 (Exh. A), 2011).

Article II. Review Process

22G.110.050 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. 2852 § 10 (Exh. A), 2011).

22G.110.060 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 dimensions 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 (3)(d) 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 22G.110.070 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. 2852 § 10 (Exh. A), 2011).

22G.110.070 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. 2852 § 10 (Exh. A), 2011).

22G.110.080 Approval.

(1) Time Limits For Approval. The applicant must submit and complete all required documents as specified by this title within one year following the date of approval. Failure to submit and complete the required documents within the one-year 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. 2852 § 10 (Exh. A), 2011).

22G.110.090 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 and two black line maps prepared by a registered land surveyor, drawn in ink on Mylar, having a trimmed size of 18 inches by 24 inches. The original Mylar map and two black line maps shall be accompanied with original signatures. 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.

(2) Certificates.

> (a) Examined, found to be in conformity with applicable zoning and other land use controls, and approved this ____ day of ____, 20__.
>
> ______________________________
> Community Development 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) 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

(d) 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

(e) Vicinity Map. A vicinity map clearly identifying the location of the property shall be submitted.

(f) Legal Descriptions. All boundary line adjustment application submittals shall include legal descriptions of the existing and proposed lots, tracts, parcels or building sites. All legal descriptions must be prepared by a licensed surveyor in the state of Washington, attorney, or title company.

(g) Affidavit of Ownership. All boundary line adjustment application submittals shall be accompanied by a notarized signature of the owner, or 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.

(h) 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.

(i) 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

(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. 2852 § 10 (Exh. A), 2011).

22G.110.100 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 community development director may waive the requirement for survey on a case-by-case basis. (Ord. 2852 § 10 (Exh. A), 2011).

22G.110.110 Recording.

(1) Recording with Auditor. When the boundary line adjustment proposed for recording has been signed by the community development 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 photocopy 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. 2852 § 10 (Exh. A), 2011).

Article III. Appeals

22G.110.120 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 22G.010.560.

(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 who will thereby suffer a direct and substantial impact from the proposed boundary line adjustment. (Ord. 2852 § 10 (Exh. A), 2011).

22G.110.130 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. 2852 § 10 (Exh. A), 2011).

Article IV. Enforcement and Penalties

22G.110.140 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 chapter 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 chapter 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. 2852 § 10 (Exh. A), 2011).

22G.110.150 Severability.

If any provision of this chapter shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this chapter would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this chapter shall not be affected as a result of said part being held unconstitutional or invalid. (Ord. 2852 § 10 (Exh. A), 2011).

22G.110.160 Savings.

Nothing contained in this chapter 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 chapter. (Ord. 2852 § 10 (Exh. A), 2011).

Chapter 22G.120

SITE PLAN REVIEW

Sections:

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22G.120.340 Survey.
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22G.120.370 Application time limits.
22G.120.380 Termination of approval.
22G.120.390 Revision of the official site plan.

Article I. General Provisions

22G.120.010 Title for citation.

This chapter shall be known as the site plan review ordinance of the city of Marysville, and the requirements set forth in this chapter are applicable to all new construction, redevelopment, and exterior expansion of multiple-family, commercial, industrial, utility, shoreline development, public-initiated land use proposals, parking, and landscaping site plan reviews. (Ord. 2914 § 3, 2012).

22G.120.020 Purpose.

(1) The purpose of this chapter is to provide a method for approval of site plans, not reviewed through Chapter 22G.080 MMC, Planned Residential Developments, or Chapter 22G.100 MMC, Binding Site Plan.

(2) It is further the purpose of this chapter 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 chapter to place the obligation of complying with its requirements upon the property owner and applicant, and no provision or term used in this chapter 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 chapter shall be discretionary and not mandatory.

(4) 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, employees or agents, for any injury or damage resulting from the failure to comply with 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 by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees, or agents. (Ord. 2914 § 3, 2012).

22G.120.030 Scope.

Review and approval is required for all new construction, redevelopment, and exterior expansion of multiple-family, commercial, industrial, utility,

shoreline development, public-initiated land use proposals, parking, and landscaping site plan reviews; or as otherwise specified in MMC Title

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22, Unified Development Code. All of the above projects require the review and approval of a site plan except for:

(1) Construction activities which do not require a building permit;

(2) Construction of a single-family residence not located within shoreline jurisdiction or a regulated critical area or buffer;

(3) Construction or expansion of a residential accessory structure;

(4) Interior remodels of existing structures when not a change of occupancy (such as converting from a residential use to a commercial use); and

(5) Tenant improvements when the modification or addition does not necessitate an expansion to the parking area. (Ord. 2914 § 3, 2012).

22G.120.040 Administration.

The community development director shall have the duty and responsibility of administering the provisions of this chapter with the authority to promulgate rules and regulations to implement and administer this chapter. (Ord. 2914 § 3, 2012).

Article II. Review Process

22G.120.050 Preapplication requirements.

(1) Preapplication Meeting. Prior to submittal of a site plan application for consideration by the city, the applicant shall request a preapplication meeting with city staff on the express conditions that the city, its officers, and 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 site layout, building location(s) and 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. 2914 § 3, 2012).

22G.120.060 Application submittal.

(1) Application Fees. The applicant shall pay the required fees as established in Chapter 22G.030 MMC, Land Use and Development Fees, when submitting the land use application for site plan review.

(2) Application Documents. A site plan review application shall consist of the following documents: land use application form, legal descriptions of parcel(s), vicinity map, title report/plat certificate, site plan, environmental checklist (if required), building elevations, landscaping plans, and preliminary drainage plans and drainage report. The following additional items may need to be submitted if determined to be necessary: traffic impact analysis, geotechnical report, and critical areas analysis and preliminary mitigation plan. The city shall provide appropriate forms and application instructions.

(3) Site Plan. The proposed site plan shall contain the following information:

(a) The name or title of the proposed project;

(b) The date, north arrow and appropriate engineering scale as approved by the community development 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) Property lines and dimensions;

(d) Location and name of existing and proposed streets and right-of-way;

(e) Drainage channels, watercourses, marshes, lakes and ponds;

(f) Existing and proposed structures and setbacks;

(g) The location of existing driveways;

(h) All easements and uses including the references to auditor's file numbers;

(i) Existing and proposed utilities services;

(j) Fire hydrant location and distance;

(k) Five-foot contour lines;

(l) Preliminary street profile together with a preliminary grading and preliminary storm drainage plan and report;

(m) A typical cross-section of the proposed street improvements; and

(n) 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 development will result in 10 or more peak-hour vehicular trips onto public streets, or sight distance/safety concern.

(5) Land Use Applications Processed Simultaneously. Unless an applicant for site plan approval requests otherwise, a site plan application shall be processed simultaneously with any application for rezones, variances, street vacations and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing. (Ord. 2914 § 3, 2012).

22G.120.070 Review process – City department action.

(1) If the site plan application meets all the requirements specified in MMC 22G.120.060, then the application shall be deemed complete and the community development department shall circulate copies of the site plan application to relevant city departments who shall review the application and furnish the community development department with a report as to the effect of the proposed development upon the public health, safety and general welfare, and containing their recommendations as to the approval of the application. The report submitted shall include recommendations as to the extent and types of improvements to be provided.

(2) Site plan review is exempt from the public notice requirements set forth in MMC 22G.010.090 unless a concurrent review process such as State Environmental Policy Act (SEPA), rezone, variance, etc., requires public notice. (Ord. 2914 § 3, 2012).

22G.120.080 Approval.

(1) Standards for Site Plans. The standards set forth in this chapter are to be used for site plan review.

(2) Provisions for Approval. No site plan shall be approved unless appropriate provisions are made for, but not limited to, the public health, safety, and general welfare. (Ord. 2914 § 3, 2012).

22G.120.090 Public use reservations.

Street Right-of-Way Realignment, Dedication or Widening. If the city concludes that the street right-of-way adjacent to a proposed development 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, in accordance with Chapter 12.02A MMC, Street Department Code. (Ord. 2914 § 3, 2012).

22G.120.100 Design with environment.

Information generated through the environmental review process, if applicable, will be used in designing the development in such a way as to mitigate potential adverse environmental impacts. (Ord. 2914 § 3, 2012).

22G.120.110 Development with existing structures.

In reviewing any project, all existing structures shall comply with the standards of this chapter and the requirements of MMC Title 22. However, if the structures are nonconforming, the applicant shall bring the project into compliance with the standards set forth in MMC Title 22 to the maximum extent possible. This chapter does not allow the applicant to increase or intensify the nonconforming nature of the structure. (Ord. 2914 § 3, 2012).

22G.120.120 Site-specific energy conservation.

The use of site-specific energy schemes shall be encouraged that best offer opportunities for maximum use of southern exposures and the use of natural climate conditions. Consideration should be given to design which preserves opportunities for potential future installments of solar energy systems as allowed for in Chapter 22C.270 MMC. (Ord. 2914 § 3, 2012).

22G.120.130 Landscaping.

Landscaping shall be required on all projects in accordance with Chapter 22C.120 MMC, Landscaping and Screening, and all other applicable landscaping design standards outlined in MMC Title 22. (Ord. 2914 § 3, 2012).

22G.120.140 Off-street parking.

Off-street parking shall be provided in accordance with Chapter 22C.130 MMC, Parking and Loading. All parking lots shall be hard-surfaced and designed per city standards. (Ord. 2914 § 3, 2012).

22G.120.150 Loading areas.

Loading areas, when required, shall be provided per Chapter 22C.130 MMC, Parking and Loading. (Ord. 2914 § 3, 2012).

22G.120.160 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 boundaries in accordance with Chapter 22C.120 MMC, Landscaping and Screening, and all other applicable screening standards outlined in MMC Title 22. (Ord. 2914 § 3, 2012).

22G.120.170 Signs.

All signs shall be per MMC Title 22 and Chapter 22C.160 MMC, Signs. All signing shall be approved by the city and integrated into the building design and the overall site plan. (Ord. 2914 § 3, 2012).

22G.120.180 Building setbacks.

All setbacks for structures shall comply with MMC Title 22C, Land Use Standards. (Ord. 2914 § 3, 2012).

22G.120.190 Fire hydrants.

(1) Fire hydrants shall be installed in accordance with MMC Title 9, Fire.

(2) Fire hydrants must be approved and operating prior to wood framing of buildings. (Ord. 2914 § 3, 2012).

22G.120.200 Access and circulation.

Ingress, egress and general circulation shall be approved by the city engineer. (Ord. 2914 § 3, 2012).

22G.120.210 Street frontage.

Whenever a project is proposed on an existing public street, frontage shall be improved to current city standards in accordance with Chapter 12.02A MMC, Street Department Code. (Ord. 2914 § 3, 2012).

22G.120.220 Sewer improvements.

All sewer improvements shall be required as specified in MMC Title 14, Water and Sewers. (Ord. 2914 § 3, 2012).

22G.120.230 Water improvements.

All water improvements shall be required as specified in MMC Title 14, Water and Sewers. (Ord. 2914 § 3, 2012).

22G.120.240 Drainage improvements.

Drainage improvements shall be required as specified in MMC Title 14, Water and Sewers. (Ord. 2914 § 3, 2012).

22G.120.250 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 Chapter 14.15 MMC, Controlling Storm Water Runoff from New Development, Redevelopment, and Construction Sites. (Ord. 2914 § 3, 2012).

22G.120.260 Easements.

Permanent easements shall be provided, as necessary, for utilities and other public services identified prior to certificate of occupancy being granted. (Ord. 2914 § 3, 2012).

22G.120.270 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 chapter.

(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 building site.

(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, a waiver shall be granted. If the city engineer does not concur, recommendations shall be made relating to the undergrounding of electrical service to the applicant for transmittal to the appropriate utility company.

(5) All utility easements within a proposed development shall be approved by the appropriate utility company before a certificate of occupancy is granted and shall be shown in their exact location on the final record drawing of said development.

(6) Nothing in this section or any other section of this title in relation to underground wiring shall 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. 2914 § 3, 2012).

22G.120.280 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. 2914 § 3, 2012).

22G.120.290 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. 2914 § 3, 2012).

22G.120.300 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. 2914 § 3, 2012).

22G.120.310 Performance guarantee requirements.

(1) Site improvements shall be completed prior to a certificate of occupancy being granted, or, at the discretion of the city engineer, or his designee, security for performance in accordance with the provisions of Chapter 22G.040 MMC may be supplied. The duration for any such security for performance shall not be longer than one year.

(2) Security for performance shall not be released until all applicable departments responsible for acceptance and maintenance of improvements have approved said release. (Ord. 2914 § 3, 2012).

22G.120.320 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. 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. 2914 § 3, 2012).

22G.120.330 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 the city with security for maintenance in accordance with the provisions of Chapter 22G.040 MMC. The warranty period for the security for maintenance shall be a minimum of two years.

(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 or security for performance and security for maintenance have been provided and accepted by the city. (Ord. 2914 § 3, 2012).

22G.120.340 Survey.

A survey conducted by or under the supervision of a registered land surveyor licensed in the state of Washington must be submitted; provided, that the community development director may waive this requirement for minor projects, additions, or other proposals where property boundaries are known. Where a survey is waived, an agreement shall be executed with the city saving and holding it harmless from any damages, direct or indirect, as a result of the approval of the site plan. (Ord. 2914 § 3, 2012).

22G.120.350 Dedication.

Any dedication, donation or grant as shown on a site plan shall be completed and recorded with the auditor's office prior to a certificate of occupancy being granted. (Ord. 2914 § 3, 2012).

22G.120.360 Review process – Decision by city.

(1) If the city engineer and community development director find that appropriate provisions have been made according to the requirements of this title, then the site plan may be granted preliminary approval. If the city engineer and community development director find that the site plan does not make the appropriate provisions according to the requirements of this title, the city may disapprove or return it to the applicant for modification and conditions for approval.

(2) The site plan approval decision shall be in writing and shall include findings of fact and conclusions.

(3) Approval of the site plan by the community development director and city engineer shall constitute authorization for the applicant to develop the site plan facilities and improvements as required in the site plan approval.

(4) Administrative decisions may be appealed in accordance with MMC 22G.010.550. (Ord. 2914 § 3, 2012).

22G.120.370 Application time limits.

(1) A decision on site plan applications subject to this chapter shall be made within 120 days of submission of a complete application as set forth in MMC 22G.010.050.

(2) The following shall be excluded when calculating this time period:

(a) Any period during which the applicant has been requested by the department to correct plans, perform required studies, or provide additional required information due to the applicant's inaccurate or insufficient information.

(b) Any period during which an environmental impact statement is being prepared.

(c) Any period for administrative appeals.

(d) Any extension for any reasonable period mutually agreed upon in writing between the applicant and the department (RCW 36.70B.080(1)). (Ord. 2914 § 3, 2012).

22G.120.380 Termination of approval.

(1) Approval of the application shall expire five years from the date the approval was final.

(2) The period may be extended by the director for up to one year upon showing a good faith effort to complete the project and proper justification. Proper justification consists of one or more of the following conditions:

(a) Economic hardship;

(b) Change of ownership;

(c) Unanticipated construction and/or site design problems;

(d) Other circumstances beyond the control of the applicant determined acceptable by the community development director.

Exception: Due to current economic conditions, projects which receive preliminary approval on or before December 31, 2012, may apply to the director for a one-time, 36-month time extension.

(3) The applicant must file a written request with the director requesting the extension at least 30 days before expiration.

(4) Once the time period and any extensions have expired, preliminary approval shall terminate and the application is void and deemed withdrawn. (Ord. 2914 § 3, 2012).

22G.120.390 Revision of the official site plan.

Revisions to an approved official site plan shall be processed pursuant to MMC 22G.010.260 or 22G.010.270. (Ord. 2981 § 43, 2015).

Title 22H

ENGINEERING STANDARDS

(Reserved)

Title 22I

ENFORCEMENT

Chapters:

22I.010 Enforcement

Chapter 22I.010

ENFORCEMENT

Sections:
22I.010.010 Purpose.
22I.010.020 Authority and application.
22I.010.030 Violations defined.

22I.010.010 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 this title when violations of MMC Title 22, Unified Development Code, occur. (Ord. 2852 § 10 (Exh. A), 2011).

22I.010.020 Authority and application.

The community development 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 MMC Title 4. (Ord. 2852 § 10 (Exh. A), 2011).

22I.010.030 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 22C.100 MMC and approved variances, are violations subject to the enforcement provisions of MMC Title 4. (Ord. 2852 § 10 (Exh. A), 2011).

Title 22J

INDUSTRIAL PILOT PROGRAM – LIVING WAGE INCENTIVE

Chapters:

22J.090 Industrial Pilot Program – Living Wage Incentive

Chapter 22J.090

INDUSTRIAL PILOT PROGRAM – LIVING WAGE INCENTIVE

Sections:

22J.090.010 Purpose.
22J.090.020 Definitions.
22J.090.030 Permitted locations.
22J.090.040 Public benefit and living wage incentive.
22J.090.050 Application and review process.
22J.090.060 Incentive.
22J.090.070 Annual reporting and penalties.
22J.090.080 Lien.
22J.090.090 Sunset.
22J.090.100 Severability.

22J.090.010 Purpose.

The purpose of this chapter is to establish a living wage incentive (LWI) program to promote the creation of living wage jobs in the light industrial (LI) zone of the city. The program is focused on economic growth and job creation by offering reduced impact fee and connection charges in exchange for the creation of living wage jobs. The city of Marysville prioritizes policies that support living wage jobs. (Ord. 2906 § 1, 2012).

22J.090.020 Definitions.

(1) "Living wage jobs" are defined as jobs generating not less than $18.00 per hour or greater working 2,080 hours per year.

(2) "Primary proposal" is defined as a proposed rezone, conditional use permit or industrial building permit, or if the industry is proposed in an existing industrial building, prior to issuance of a city business license. (Ord. 2906 § 1, 2012).

22J.090.030 Permitted locations.

The LWI program shall be utilized only in the light industrial (LI) zoning classification. (Ord. 2906 § 1, 2012).

22J.090.040 Public benefit and living wage incentive.

Public Benefit. The public benefit of living wage jobs are that they provide for the earner's basic costs of living without the need for government support or poverty programs. Basic costs include provision of food, housing and utilities, child care, health care, household expenses, taxes, and some savings. Creation of new jobs/living wage jobs in Marysville also supports the local economy and fosters local commerce, sales tax revenue and economic growth. (Ord. 2906 § 1, 2012).

22J.090.050 Application and review process.

(1) Application. All LWI proposals shall be submitted to the department of community development on application forms provided by the city concurrent with any primary proposal, together with a $200.00 processing fee.

(2) All LWI proposals shall be reviewed concurrently with a primary proposal as follows by supplying documentation demonstrating all of the following:

(a) Industry's long-term need for position;

(b) Pay scale;

(c) Need for number of positions that LWI is being applied for;

(d) When the primary proposal requires a public hearing, the public hearing on the primary proposal shall serve as the hearing on the LWI proposal;

(e) When the primary proposal does not require a public hearing under this title, the LWI proposal shall be subject to the procedures set forth for director review in MMC 22G.010.100;

(f) Such other and further information as the director deems necessary to fully and adequately evaluate the proposal. (Ord. 2906 § 1, 2012).

22J.090.060 Incentive.

(1) If an application is deemed to meet the criteria of MMC 22J.090.050, a qualified applicant may be eligible for a credit or adjustment to the traffic impact fee established in MMC Title 22D and MMC 14.07.010 as follows: for every five living wage jobs created, the city may consider a 10 percent credit per traffic impact fee and sewer and water capital improvement charge up to a maximum of 70 percent of each individual fee.

(2) In order that these not be a duplication of credit or adjustment already provided in other provisions of the city code, the city may reduce the credit or adjustment based on the value of any dedication of land for, improvement to, and new construction of system improvements provided by the developer and also special circumstances applying to the subject proposal for which a credit or adjustment has already been allowed under MMC 22D.020.070 or 14.07.010 by supplying documentation. (Ord. 2906 § 1, 2012).

22J.090.070 Annual reporting and penalties.

(1) Each industry that qualifies and receives the LWI will be required to submit annual payroll reports to the city which demonstrate the perpetuation of all living wage jobs for which the industry received a credit.

(2) Three years from the date of approval of the credit or adjustment of the fees provided for herein, the applicant shall provide all required data to the city to determine the net gain or loss of living wage jobs compared to the number which were utilized to calculate the credit or adjustment to fees. If the number of living wage jobs created at the end of the three-year period is the same or greater than the number used to calculate the credit or adjustment, the original credit or adjustment shall be deemed finally approved and confirmed. Any decrease in living wage jobs which the applicant received credit for will result in a proportionate reduction of the credit and repayment to the city for the loss of public benefit. (Ord. 2906 § 1, 2012).

22J.090.080 Lien.

(1) The total amount of the traffic impact fee and sewer and water capital improvement fee credits authorized in MMC 22J.090.060 shall constitute a lien against the real property which is the subject of the development proposal. Said lien shall secure repayment for the loss of living wage jobs and a reduction of the previously allowed credit as described in MMC 22J.090.070. The lien for impact fees shall:

(a) Be in a form approved by the city attorney; and

(b) Include the legal description, tax account number and address of the property.

(2) Upon receipt of final repayment of all fees for the development, the department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their expense, will be responsible for recording each lien release.

(3) In the event that the fees are not repaid in accordance with MMC 22J.090.070, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW. In addition to any unpaid fees, the city shall be entitled to interest on the unpaid fees at the rate provided for in RCW 19.52.020 and the reasonable attorney fees and costs incurred by the city in the foreclosure process. Notwithstanding the foregoing, prior to commencement of foreclosure, the city shall give not less than 30 days' written notice to the person or entity whose name appears on the assessment rolls of the county assessor as owner of the property via certified mail with return receipt requested and regular mail advising of its intent to commence foreclosure proceedings. If the fees are paid in full to the city within the 30-day notice period, no attorney fees, costs and interest will be owed.

(4) In the event that the fees are not paid in accordance with this section, and in addition to foreclosure proceedings provided in subsection (3) of this section, the city may initiate any other action(s) legally available to collect such fees. (Ord. 2906 § 1, 2012).

22J.090.090 Sunset.

The ordinance codified in this chapter shall automatically be repealed without further action of the city council and shall be of no further force and effect three years from the effective date thereof. (Ord. 2906 § 1, 2012).

22J.090.100 Severability.

If any section, subsection, sentence, clause, phrase, or word of the ordinance codified 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 the ordinance codified in this chapter. (Ord. 2906 § 1, 2012).

Table of Ordinances

1	Houses of ill fame (Obsolete)
2	Dog licenses (Repealed by 48, 133)
3	Auctioneers, hawkers and peddlers (Repealed by 43)
4	Gaming tables and bowling alleys (Superseded by 82)
5	Prohibited gambling (Repealed by 82)
6	Salaries of officers (Repealed by 64)
7	Council meetings (Repealed by 73, 77)
8	Council meetings (Repealed by 77)
9	Payment for public works (Repealed by 80)
10	Franchise for railroad (Special)
11	Extending time for assessment (Special)
12	Establishing survey base line (Repealed by 128)
13	Liquor (Obsolete)
14	Annual assessment (Repealed by 308)
15	Office of engineer (Superseded by 496)
16	Public improvements (Repealed by 80)
17	Guns and explosives (Repealed by 76)
18	Vehicle licenses (Repealed by 44, 210, 349)
19	Street grade (Special)
20	Improving Front Street (Special)
21	Improving street (Special)
22	Annual street poll tax (Special)
23	Creating funds (Special)
24	Assessment and levy of property tax (Special)
25	Certain misdemeanors (Repealed by 76)
26	Street grade (Special)
27	Amends Ord. 14, assessment (Repealed by 308)
28	Amends Ord. 21, street improvement (Special)
29	Survey (Special)
30	Defining and punishing misdemeanors (Repealed by 76)
31	Working prisoners (Repealed by 308)
32	Clearing for streets (Repealed by 80)
33	Clearing for streets (Special)
34	Amends Ord. 8, council meetings (Repealed by 77)
35	Amends Ord. 26, street grades (Special)
36	Street fund established (Special)
37	Publishing notices (Repealed by 1432)
38	Franchise to lumber company (Special)
39	Providing for general elections (Obsolete, superseded by statute)
40	Improving street (Special)
41	Street grade (Special)
42	Second Street fund established (Special)
43	Auctioneers, hawkers and peddlers (Repealed by 83)
44	Vehicle licenses (Repealed by 349)
45	Street grade (Special)
46	Street grade (Special)
47	Street fund (Special)
48	Dog licenses, dogs at large (Repealed by 133)
49	Street poll tax (Special)
50	Riding and driving on streets, garbage on streets (Repealed by 80)
51	Volunteer fire department created (Repealed by 1455)
52	Property tax for 1892 (Special)
53	Liquor license (Obsolete)
54	(Missing)
55	Interference with fire equipment (Repealed by 76)
56	Providing pay for volunteer fire department (Obsolete)
57	Bond issue (Special)
58	Bond issue (Special)
59	Amends Ord. 48, tax on dogs (Repealed by 133)
60	Street poll tax (Special)
61	Personal property tax levy (Special)
62	Establishing interest fund (Repealed by 308)
63	Amends Ord. 13, liquor (Obsolete)
64	Salaries of officers (Repealed by 303)
65	Defining nuisances (12.24)
66	Riding or driving on sidewalks (Repealed by 80 and 349)
67	General street fund (Repealed by 308)
68	Tax levy (Special)
69	Amends Ord. 60, street poll tax (Special)
70	Theaters and entertainment (Repealed by 209)
71	(Missing)
72	Tax assessment, method (Obsolete, superseded by statute)
73	Council meetings (Repealed by 77)
74	Pay of officers (Repealed by 303)
75	Riding bicycles on sidewalks (Repealed by 80 and 349)
76	Prohibiting certain acts (Not codified)
77	Council meetings (2.04)
78	Obstruction of streets by trains (Repealed by 349)
79	Amends Ord. 60, street poll tax (Special)
80	Use of streets (12.20)
81	Liquor sale (Repealed by 308)
82	Gambling rooms (Not codified)
83	Licensing and regulating peddling (Repealed by 244)
84	Prohibits carrying dangerous weapons (Repealed by 965)
85	Curfew (Superseded by 346 and 500)
86	Fire limits (Obsolete)
87	Franchise for waterworks (Special)
88	Vacating street (Special)
89	Local improvements (Superseded by 175)
90	Amends Ord. 81, liquor license (Repealed by 92)
91	Improving street (Special)
92	Amends Ord. 81, liquor (Repealed by 111)
93	Franchise for electricity, telephone company (Special)
94	Franchise for electric power (Repealed by 95)
95	Repeals 94, franchise (Special)
96	Franchise for electric power (Special)
97	Improving street (Special)
98	(Missing)
99	Franchise for telephone company (Repealed by 135)
100	Vacating part of street (Special)
101	Improving street (Special)

102	(Missing)
103	(Missing)
104	(Missing)
105	(Missing)
106	Improving street (Special)
107	Amends Ord. 99, franchise for telephone company (Repealed by 135)
108	Improving street (Special)
109	Improving street (Special)
110	Improving street (Special)
111	Liquor license (Repealed by 308)
112	Animals at large (Repealed by 2013)
113	Vagrancy (Superseded by 506)
114	Amends Ord. 112, animals at large (Repealed by 2013)
115	Office of city attorney (2.28)
116	Street poll tax (Special)
117	Survey (Special)
118	Survey (Special)
119	Amends Ord. 89, improving streets (Not codified)
120	Amends Ord. 81, liquor license (Repealed by 308)
121	Creating LID (Special)
122	LID fund (Special)
123	Amends Ord. 87, franchise for waterworks (Special)
124	Franchise for railroad (Special)
125	Office of police justice (Repealed by 1089)
126	Salaries of officers (Repealed by 303)
127	Office of engineer (Superseded by 496)
128	Establishing base line (Not codified)
129	Amends Ord. 124, franchise for railroad (Special)
130	Permit for construction in street (12.08)
131	Auctioneers (Repealed by 1201)
132	Working prisoners (Repealed by 965)
133	Dog license, dogs at large (Repealed by 389)
134	Franchise for telephone company (Repealed)
135	Franchise for telephone company (Special)
136	Creating LID (Special)
137	Creating LID fund (Special)
138	Survey (Special)
139	Survey (Special)
140	Vacating part of street (Special)
141	Vacating part of street (Special)
142	Sidewalk maintenance (12.12)
143	Standing animals (Repealed by 1327)
144	Improving street (Special)
145	LID 10, fund created (Special)
146	Improving street (Special)
147	LID 11, fund created (Special)
148	Improving street (Special)
149	LID 12, fund created (Special)
150	Merry-go-rounds, etc., licensing (Repealed by 1771)
151	Vacating part of street (Special)
152	Improving street (Special)
153	LID fund created (Special)
154	Amends Ord. 70, theater and show license (Repealed by 209)
155	Vacating land (Special)
156	Regulating motor vehicles (Obsolete)
157	Regulating speed of railroad trains (Repealed by 349)
158	Improving street (Special)
159	LID fund created (Special)
160	Improving alley (Special)
161	LID fund created (Special)
162	Specifications for sidewalks (Repealed by 1632)
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 729)
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 (Repealed by 2856)
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 (Repealed by 729)
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 (Repealed by 2724)
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 (Repealed by 2724)
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 (Repealed by 2724)
707	Adds §§ 12.02.140 and 12.02.150, street department code (Repealed by 2724)
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 (Repealed by 2724)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2937)
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 (Repealed by 2724)
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 Rezone (Special)
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 (Repealed by 2724)
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 (Repealed by 2724)
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 (Repealed by 2724)
1099 Amends § 19.44.060, zoning board of adjustment (Repealed by 2131)
1100 Amends §§ 18.16.070 and 18.16.100, shoreline management permits (Repealed by 2852)
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 (Repealed by 2724)
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 (Repealed by 2852)
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 (Repealed by 2724)
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 contracts (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 (Repealed by 2852)
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 (Repealed by 2937)
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 (Repealed by 2724)
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)
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 (Repealed by 2724)
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 (Repealed by 2964)
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 (Repealed by 2852)
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 (Repealed by 2852)
1299 Adds Ch. 18.08, comprehensive plan (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2724)
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 (Repealed by 2856)
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 (Repealed by 2724)
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 (Not codified)
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 (Repealed by 2852)
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 (Repealed by 2835)
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 (Repealed by 2724)
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 (Repealed by 2937)
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 (Repealed by 1749)
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 second-hand 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 (Repealed by 2852)
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 second-hand 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 (Repealed by 2724)
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 (Repealed by 2937)
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 (Repealed by 2816)
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 (Repealed by 2852)
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 (Repealed by 2950)
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)
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 (Repealed by 2852)
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)

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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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2835)
2096 Mayor (Not codified)
2097 Annexation (Special)
2098 Rezone (Special)
2099 Special events (Repealed by 2901)
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, 12.28, 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 (Repealed by 2852)
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 (Expired)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2724)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
2280 Amends Ch. 19.24, sensitive areas (Repealed by 2852)
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)
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 (Repealed by 2852)
2299 Parks and recreation fee schedule (Repealed by 2502)
2300 Adds Title 18A, park impact fees (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
2331 Amends § 18C.10.050, school impact fee (Repealed by 2852)
2332 Amends § 18C.10.010, school impact fee (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
2344 Readopts and reimposes park, recreation and trail impact fees (Repealed by 2852)
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 (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 (Repealed by 2852)
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 (Repealed by 2875)
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 (Repealed by 2852)
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 (Repealed by 2852)
2411 Amends §§ 19.26.020 and 19.26.030, density incentives (Repealed by 2852)
2412 Amends § 19.16.090, landscape buffers (Repealed by 2852)
2413 Amends § 19.12.030, zoning (Repealed by 2852)
2414 Amends §§ 19.28.020 and 19.28.070, clearing and grading permit (Repealed by 2852)
2415 Amends § 19.34.020, accessory dwelling units (Repealed by 2852)
2416 Amends § 19.43.020, wireless facilities (Repealed by 2852)
2417 Adds §§ 19.06.087, 19.06.201 and 19.06.451; amends § 19.06.580, zoning (Repealed by 2852)
2418 Adds § 19.18.095; amends § 19.18.090, parking (Repealed by 2852)
2419 Amends §§ 19.06.263 and 19.06.328, zoning (Repealed by 2852)
2420 Amends § 20.24.070, landscaping (Repealed by 2852)
2421 Amends § 19.20.200(3)(d), zoning (Repealed by 2820)
2422 Amends § 19.14.160, fences (Repealed by 2852)
2423 Adds § 19.14.095, zoning (Repealed by 2852)
2424 Adds § 19.38.150, mobile home parks (Repealed by 2852)
2425 Amends § 19.14.080, zoning (Repealed by 2572)
2426 Adds § 19.32.030, zoning (Repealed by 2852)
2427 Amends § 19.22.030, zoning (Repealed by 2852)
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 (Repealed by 2852)
2434 Adds § 19.14.095, subdivision screening (Repealed by 2852)

2435 Amends § 20.12.020(3), subdivisions (Repealed by 2852)
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 (Repealed by 2964)
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 (Repealed by 2852)
2445 Amends § 19.06.023, adult panorams (Repealed by 2852)
2446 Amends § 19.06.018, adult drive-in theaters (Repealed by 2852)
2447 Amends § 19.06.015, adult cabarets (Repealed by 2852)
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 (Repealed by 2852)
2453 Adds §§ 19.06.429 and 19.06.441; amends § 19.54.050, zoning (Repealed by 2852)
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 (Repealed by 2852)
2464 Amends § 19.12.140; repeals § 19.12.230, setbacks (Repealed by 2852)
2465 Adds § 20.80.025; amends § 20.80.020, boundary line adjustments (Repealed by 2852)
2466 Amends §§ 16.32.110 and 16.32.160, floodplain management (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
2481 Adds § 19.26.040; amends § 19.26.030, residential density incentives (Repealed by 2852)
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 (Repealed by 2719)
2488 Adds § 19.06.364; amends §§ 19.08.100 and 19.55.010; repeals Ord. 2467, zoning (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
2527 Amends §§ 20.12.120, 20.24.070, 20.24.160 and 20.48.050; repeals § 20.24.290, subdivisions (Repealed by 2852)
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 (14.07)
2532 Amends Ch. 9.04, fire code (Repealed by 2875)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
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 (Repealed by 2852)
2574 Establishes traffic impact fee exemption (Repealed by 2852)
2575 Adds §§ 19.06.499 and 19.18.115; amends §§ 19.02.070, 19.08.030 and 19.12.040, zoning (Repealed by 2852)
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 Adds § 11.04.032, speed limits (11.04)
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)
2602 EMS property tax levy (Special)
2603 2006 tax levy (Special)
2604 Adopts 2006 budget (Special)
2605 Amends comprehensive plan and 2005 budget (Special)
2606 Amends Ch. 14.32, utility service area (14.32)
2607 Amends § 14.07.010(2), hotel/motel connection charges (14.07)
2608 Amends 2006 budget (Special)
2609 Street vacation (Special)
2610 Street vacation (Special)
2611 Amends 2005 budget (Special)
2612 Amends § 14.05.090, lien search fees (14.05)
2613 Amends § 2.50.050, compensation of council members (2.50)
2614 Amends §§ 2.10.020 and 2.10.040, cable television advisory committee (2.10)
2615 Amends §§ 2.70.090 and 11.37.060, tow truck operators' appeals (11.37)
2616 Amends 2006 budget (Special)
2617 Condemnation, appropriation of property (Special)
2618 Amends § 5.02.030, business licenses (5.02)
2619 Amends 2006 budget (Special)
2620 Amends §§ 14.07.060 and 14.07.070, water and sewer rates (14.07)
2621 Amends § 2.24.030, municipal judge (2.24)
2622 Affirms hearing examiner rezone decision (Special)
2623 Amends § 2.80.040(2), code of ethics (2.80)
2624 Street vacation (Special)
2625 Adds §§ 19.06.700, 19.06.715, 19.06.720, 19.06.725, 19.06.730, 19.06.735, 19.06.740, 19.06.745, 19.06.750, 19.06.755, 19.06.760, 19.06.765, 19.06.770, 19.06.775, 19.06.780, 19.06.785 and 19.06.790; amends §§ 19.06.705, 19.06.710, 19.08.060, 19.12.110, 19.16.090, Ch. 19.43 and § 20.04.050; repeals §§ 19.06.701, 19.06.702, 19.06.703, 19.06.704, 19.06.706, 19.06.707, 19.06.708 and 19.06.709, wireless communication facilities (Repealed by 2852)
2626 Adds § 19.06.314; amends §§ 19.06.153, 19.06.320, 19.08.030 and 19.38.020, manufactured homes (Repealed by 2852)
2627 Annexation (Special)
2628 Amends §§ 2.10.020 and 2.10.040, cable television advisory committee (2.10)
2629 Open video system franchise grant (Special)
2630 Amends §§ 2.50.050 and 2.51.040, council member reimbursement (2.50, 2.51)
2631 Amends §§ 19.04.020, 19.04.220, 19.08.030, 19.08.040, 19.08.050, 19.08.060, 19.08.100, 19.12.040, 19.14.020, 19.14.050 and 19.14.100, zoning (Repealed by 2852)
2632 Amends comprehensive plan (Special)
2633 Annexation (Special)
2634 Annexation (Special)
2635 Amends § 19.06.343, zoning (Repealed by 2852)
2636 Amends Ord. 2627, annexation (Special)
2637 (Not used)
2638 (Void)
2639 Amends § 19.08.030, zoning (Repealed by 2852)
2640 Amends § 19.08.040, zoning (Repealed by 2852)
2641 Amends § 19.08.060, zoning (Repealed by 2852)
2642 Amends § 19.14.190, zoning (Repealed by 2852)
2643 Amends §§ 19.32.020 and 19.32.030, home occupations (Repealed by 2852)
2644 Amends § 19.06.125, zoning (Repealed by 2852)
2645 Amends § 19.08.050, zoning (Repealed by 2852)
2646 Adds Ch. 3.101, crime prevention funding (3.101)
2647 Adds Ch. 3.95A, recovery of costs for convicted persons (3.95A)
2648 Annexation (Special)
2649 Amends 2006 budget (Special)
2650 Annexation (Special)
2651 Grants pipeline franchise (Special)
2652 Condemnation and acquisition of property (Special)
2653 Amends 2006 budget (Special)
2654 Adds § 14.07.075; amends § 14.05.030 and Ch. 14.19, surface water utility (14.05, 14.07, 14.19)
2655 Condemnation and acquisition of property (Special)
2656 Repeals § 19.20.070, sign permit fees (Repealer)
2657 Grants cable television franchise (Special)
2658 Amends § 16.04.030, building code (16.04)
2659 Detached single-family residential construction moratorium (Repealed by 2671)
2660 Annexation (Special)
2661 Annexation (Special)
2662 Amends §§ 19.08.030, 19.14.020, 19.14.095, Chs. 19.26 and 20.44, §§ 20.48.030, 20.52.020 and 20.56.120; repeals and replaces Ch. 19.48, development regulations (Repealed by 2852)
2663 Annexation (Special)
2664 Street vacation (Special)
2665 Street vacation (Special)
2666 Street vacation (Special)
2667 Street vacation (Special)
2668 Comprehensive plan; repeals Ord. 859 (Repealed by 2852)

2669 Adds Ch. 5.73, wireless communication facility franchise regulations (5.73)
2670 Amends § 14.07.010(2), water service fees (14.07)
2671 Repeals Ord. 2659, detached single-family residential construction moratorium (Repealer)
2672 Adds § 12.04.013, street names (12.04)
2673 Amends § 11.08.170, moving and reparking vehicles (11.08)
2674 Condemnation and acquisition of property (Special)
2675 Grants wireless facilities franchise (Special)
2676 Adopts 2007 budget (Special)
2677 2007 tax levy (Special)
2678 2007 EMS property tax levy (Special)
2679 Amends 2006 budget (Special)
2680 Amends §§ 14.07.060 and 14.07.070, water and sewer rates (14.07)
2681 Annexation (Special)
2682 Amends 2007 budget (Special)
2683 Extends acceptance deadline for wireless facilities franchise (Special)
2684 Amends Ch. 6.25, graffiti nuisance (6.25)
2685 Amends Ord. 2655, condemnation and acquisition of property (Repealed by 2966)
2686 Annexation (Special)
2687 Annexation (Special)
2688 Amends 2006 budget (Special)
2689 Amends comprehensive plan (Special)
2690 Amends §§ 2.51.040(1) and (2), salary commission (2.51)
2691 Moratorium on Smokey Point subarea development applications (Special)
2692 Amends 2007 budget (Special)
2693 Affirms hearing examiner rezone decision (Special)
2694 Adds §§ 14.15.062, 14.17.035, 19.06.054, 19.16.115, 19.28.030(2)(g) and Ch. 19.49; amends §§ 12.02A.030(4), 12.02A.090(1), 12.02A.100(3), 14.15.020, 14.15.050(2) and (7), 14.16.015, 14.16.040, 14.17.090, 19.06.268, 19.06.343, 19.16.080(4), 19.16.100, 19.24.100(10), 19.24.230(9), 20.12.010(2), 20.24.070(2) and (3), 20.24.090(4), 20.24.110 and 20.24.250, low impact development (12.02A, 14.15, 14.17)
2695 Amends engineering design and development standards (Not codified)
2696 Adds § 19.12.035; amends § 19.26.020 and comprehensive plan, East Sunnyside/Whiskey Ridge subarea plan (Repealed by 2852)
2697 Rezone (Special)
2698 Amends § 19.26.030, density incentives (Repealed by 2852)
2699 Amends transportation element of comprehensive plan and 2007 budget (Special)
2700 Bond issuance (Special)
2701 Bond issuance (Special)
2702 Adds § 2.24.055, municipal court commissioner (2.24)
2703 Amends Ords. 2655 and 2685, condemnation and acquisition of property (Repealed by 2965)
2704 Amends Ords. 2655, 2685 and 2703, condemnation and acquisition of property (Special)
2705 Adds §§ 11.04.036, 11.04.037 and 11.04.038, speed limits (11.04)
2706 Amends § 14.19.080(1), surface water utility bill reductions (14.19)
2707 Annexation (Special)
2708 Adds Ch. 16.12; amends Chs. 16.04, 16.08 and 16.28, building codes (16.04, 16.08, 16.12, 16.28)
2709 Adopts 2007 City Initiated Amendment Request No. 2 to the comprehensive plan (Special)
2710 Adopts 2007 City Initiated Amendment Request No. 3 to the comprehensive plan (Special)
2711 Adopts 2007 City Initiated Amendment Request No. 4 to the comprehensive plan (Special)
2712 Adopts 2007 City Initiated Amendment Request No. 5 to the comprehensive plan (Special)
2713 Adopts 2007 City Initiated Amendment Request No. 6 to the comprehensive plan (Special)
2714 Adopts 2007 City Initiated Amendment Request No. 7 to the comprehensive plan, rezone (Special)
2715 Adopts 2007 City Initiated Amendment Request No. 8 to the comprehensive plan, rezone (Special)
2716 Adopts 2007 Citizen Initiated Amendment Request No. 1 to the comprehensive plan, rezone (Special)
2717 Adopts 2007 Citizen Initiated Amendment Request No. 2 to the comprehensive plan, rezone (Special)
2718 Amends § 3.64.170, utility taxpayer record keeping (3.64)
2719 Adopts 2007 City Initiated Amendment Request No. 1 to the comprehensive plan; repeals Ord. 2487 (Special)
2720 Adopts Marysville Capital Facilities Plan 2008 – 2014 (Special)
2721 2008 tax levy (Special)
2722 2008 EMS property tax levy (Special)
2723 Adopts 2008 budget (Special)
2724 Amends §§ 12.02A.090 and 12.02A.110; repeals Ch. 12.02, street department code (12.02A)
2725 Repeals § 3 of Ord. 960, development agreement termination (Special)
2726 Amends § 14.19.070, surface water utility billing (14.19)
2727 Amends §§ 14.07.060 and 14.07.070, water and sewer rates (14.07)
2728 Adds § 19.06.317; amends §§ 19.06.193, 19.12.030, 19.12.040, 19.16.090, 19.18.160 and 20.24.060; repeals § 19.12.210 and Ch. 19.37, zoning and subdivisions (Repealed by 2852)
2729 Amends 2007 budget (Special)
2730 Amends Ch. 3.51, petty cash fund (3.51)
2731 Authorizes acquisition of property (Special)
2732 Annexation (Special)
2733 Amends § 2.50.060; repeals § 2.50.080, personnel code (2.50)
2734 Amends § 6.42.010, theft (6.42)

2735 Amends § 2.50.060(2), personnel code (2.50)
2736 Affirms hearing examiner rezone decision (Special)
2737 Amends Ch. 9.20, fireworks (9.20)
2738 Adds Ch. 19.14A; amends comprehensive plan, Smokey Point master plan area (Repealed by 2852)
2739 Amends Ch. 9.04, fire code (Repealed by 2875)
2740 Amends Chs. 16.04, 16.08, 16.12 and 16.28, building codes (16.04, 16.08, 16.12, 16.28)
2741 Adds § 15.09.080, construction plan approval (Repealed by 2852)
2742 Adds §§ 19.06.120 and 19.14.040; amends § 19.08.030, cottage housing developments (Repealed by 2852)
2743 Cable television franchise (Special)
2744 Amends Ch. 5.02, business licenses (5.02)
2745 Rezone (Special)
2746 Amends Ch. 11.52, commute trip reduction (CTR) plan (11.52)
2747 Right-of-way vacation (Special)
2748 Amends § 6.03.120 and Chs. 6.06 and 6.51, penal code (6.03, 6.06, 6.51)
2749 2009 tax levy (Special)
2750 2009 tax levy (Special)
2751 Adopts 2009 budget (Special)
2752 Amends Ord. 2569, comprehensive plan (Special)
2753 Rezone (Special)
2754 Amends Ord. 2569, comprehensive plan (Special)
2755 Adopts 2008 Citizen Initiated Amendment Request No. 2 to the comprehensive plan, rezone (Special)
2756 Amends § 14.07.005, water and sewer fees (14.07)
2757 Amends 2008 budget (Special)
2758 Amends §§ 14.07.060, 14.07.070 and 14.19.050, water and sewer rates (14.07, 14.19)
2759 Amends § 2.24.210, municipal court (2.24)
2760 Wireless facilities franchise (Special)
2761 Amends 2009 budget (Special)
2762 Adds Ch. 19.14B; amends East Sunnyside/Whiskey Ridge master plan area (Repealed by 2852)
2763 Amends Ch. 4.02 and § 6.24.050, enforcement and nuisances (4.02, 6.24)
2764 Amends 2009 budget (Special)
2765 Amends § 7.08.065, accessibility of garbage containers (7.08)
2766 Amends §§ 2.48.030 and 2.48.040, police department personnel and commissions (2.48)
2767 Amends Ch. 6.27, controlled substances and drug paraphernalia (6.27)
2768 Amends comprehensive plan and 2009 budget (Special)
2769 Amends § 19.28.030, clearing, grading, filling and erosion control standards (Repealed by 2852)
2770 Amends § 2.50.060, authorized reimbursements for city employees (2.50)
2771 Amends § 11.37.050, tow truck businesses (11.37)
2772 Amends §§ 19.43.030, 19.43.040, 19.43.050, 19.43.060, 19.43.070 and 19.43.080, wireless communication facilities (Repealed by 2852)
2773 Amends §§ 3.92.020 and 3.92.030, gambling activities tax (3.92)
2774 Adds § 14.01.055; amends § 14.01.050, sewer and water connections (14.01)
2775 Amends § 14.07.010(1), utility connection capital facilities charges (14.07)
2776 Amends § 19.08.030 and Ch. 19.34, residential accessory structures (Repealed by 2852)
2777 Amends 2009 budget (Special)
2778 Amends § 3.67.010, solid waste tax (3.67)
2779 Amends §§ 7.08.110 and 7.08.111, garbage collection rates (7.08)
2780 Amends §§ 14.07.005, 14.07.090, 14.16.130 and 18.24.045, recovery contracts (14.07, 14.16)
2781 Adopts 2009 water comprehensive plan (Special)
2782 Adds Ch. 14.21, illicit discharge detection and elimination (IDDE); amends §§ 3.20.020 and 19.22.070, storm water management (3.20, 14.21)
2783 Condemnation, appropriation, taking and damaging of property (Special)
2784 Adds § 20.12.130, substantial revisions of county-approved preliminary plats; amends §§ 15.09.080, 16.04.010, 19.52.090, 20.12.120, 20.20.080 and 20.48.050, extension of development approval expiration periods (16.04)
2785 Adds Ch. 19.51; amends §§ 15.12.010, 19.16.030, 19.24.150(2), 19.24.270(2), 19.24.300(3), 19.28.060(2), 19.38.040(8), 19.40.080, 19.42.130(9), 20.24.240, 20.24.260, 20.56.270 and 20.56.290, security for performance and maintenance (Repealed by 2852)
2786 Amends §§ 19.14.010 and 19.14.050, development standards and design requirements (Repealed by 2852)
2787 Adds Ch. 19.23, downtown planned actions (Repealed by 2852)
2788 Adds Ch. 19.14C, development standards for downtown master plan area (Repealed by 2852)
2789 Zoning of Central Marysville Annexation (Special)
2790 Transfer of funds (Special)
2791 Transfer of control of franchise (Special)
2792 Annexation (Special)
2793 Amends § 16.04.050, building permit plan review fees (16.04)
2794 Declaration of substantial need for purposes of setting limit factor for EMS property tax levy (Special)
2795 2010 EMS tax levy (Special)
2796 Declaration of substantial need for purposes of setting limit factor for property tax levy (Special)
2797 2010 tax levy (Special)
2798 Adopts 2010 budget (Special)
2799 Sets threshold and tax rates for Central Marysville Annexation (3.85)

2800 Adopts Snohomish County codes and ordinances as required for Central Marysville Annexation (Special)
2801 Adds Ch. 3.103, multifamily housing property tax exemption (3.103)
2802 Adds Ch. 19.47; amends § 19.08.030, master planned senior communities (Repealed by 2852)
2803 Authorizes interlocal agreement with Snohomish County (Special)
2804 Amends § 3.64.020(1), utility tax (Expired)
2805 Amends § 18C.10.010, school impact fees (Repealed by 2852)
2806 Amends §§ 15.12.010 and 18C.12.040, development fees (Repealed by 2852)
2807 Amends 2009 budget (Special)
2808 Amends surface water comprehensive plan (Special)
2809 Amends § 19.14.095, small lot single-family development standards (Repealed by 2852)
2810 Adds § 19.44.080(1)(e); amends § 19.44.080(1)(d), temporary uses (Repealed by 2852)
2811 Adds Ch. 3.86, admissions tax (3.86)
2812 Amends §§ 19.24.150 and 19.24.270, security for performance obligation (Repealed by 2852)
2813 Repeals and replaces Ch. 19.51, security for performance and maintenance (Repealed by 2852)
2814 Amends 2010 budget (Special)
2815 Amends §§ 14.07.060, 14.07.070 and 14.19.050, utility rates (14.07, 14.19)
2816 Amends § 4.02.040, Chs. 14.03, 14.05, 14.07, 14.09, 14.15, 14.16, 14.17 and 14.18 and § 19.22.070, stormwater management (4.02, 14.03, 14.05, 14.07, 14.09, 14.15, 14.16, 14.17, 14.18)
2817 Amends § 2.24.030, municipal judge appointment (2.24)
2818 Condemnation and acquisition of property (Special)
2819 Amends § 2.16.020, civil service commission (2.16)
2820 Repeals and replaces Ch. 19.20, sign code; repeals §§ 19.06.593 through 19.06.665 (Repealed by 2852)
2821 Amends Ch. 16.12, electrical code (16.12)
2822 Amends 2010 budget (Special)
2823 Amends § 14.07.070, sewer rates (14.07)
2824 Amends § 18B.14.035, traffic impact fee exemptions (Repealed by 2852)
2825 Amends § 2.50.090, city issued credit cards (2.50)
2826 SR 529 maintenance agreement (Special)
2827 Overpass construction; establishes LID No. 71 (Special)
2828 Appropriation of property for sidewalk construction (Special)
2829 Adds Ch. 6.82, park code (6.82)
2830 Bond issuance (Special)
2831 Amends 2010 budget (Special)
2832 Amends §§ 19.04.020, 19.04.080, 19.08.030, 19.08.040, 19.08.050, 19.08.060, 19.08.100, 19.38.030 and 19.38.150, zoning (Repealed by 2852)
2833 Amends § 10.04.150, animal control (10.04)
2834 Amends Ch. 5.92, public bath houses, body shampoo parlors and body art, body piercing and tattooing and tattoo parlors (5.92)
2835 Amends Ch. 14.32, utility service planning area (14.32)
2836 Amends §§ 14.07.060, 14.07.070 and 14.19.050, utility rates (14.07, 14.19)
2837 2011 EMS tax levy (Special)
2838 2011 tax levy (Repealed by 2850)
2839 Adopts 2011 budget (Special)
2840 Amends § 3.65.010, water and sewer tax rate (3.65)
2841 Amends § 3.64.020(1), telephone utility tax (Expired)
2842 Amends water comprehensive plan (Special)
2843 Amends comprehensive plan (Special)
2844 Amends growth management comprehensive plan (Special)
2845 Adopts 2010 Citizen Initiated Amendment to the comprehensive plan, rezone (Special)
2846 Amends §§ 5.92.010(11) and 5.92.090(1)(c), public bath houses, body shampoo parlors and body art, body piercing and tattooing and tattoo parlors (5.92)
2847 Amends 2010 budget (Special)
2848 Intent to annex to and join Snohomish County Fire Protection District No. 12 (Special)
2849 Amends Ch. 2.30, city clerk (2.30)
2850 Repeals Ord. 2838, 2011 tax levy (Repealer)
2851 Amends §§ 5.24.010, 5.24.020, 5.24.030, 5.24.050, 5.24.060, 5.24.070, 5.24.090, 5.24.100, 5.24.140, 5.24.150, 5.24.210 and 5.24.240, for-hire vehicles (5.24)
2852 Adds Title 22, unified development code; repeals Ch. 2.70, Title 15, Ch. 16.32, Titles 18, 18A, 18B, 18C, 19 and 20 (22A.010, 22A.020, 22A.030, 22A.040, 22B.010, 22B.020, 22C.010, 22C.020, 22C.030, 22C.040, 22C.050, 22C.060, 22C.070, 22C.080, 22C.090, 22C.100, 22C.120, 22C.130, 22C.140, 22C.150, 22C.160, 22C.170, 22C.180, 22C.190, 22C.200, 22C.210, 22C.220, 22C.230, 22C.240, 22C.250, 22C.260, 22D.010, 22D.020, 22D.030, 22D.040, 22D.050, 22E.010, 22E.020, 22E.030, 22E.040, 22E.050, 22G.010, 22G.020, 22G.030, 22G.040, 22G.050, 22G.060, 22G.070, 22G.080, 22G.090, 22G.100, 22G.110, 22I.010)
2853 Continues the Central Marysville Annexation sales and use tax (3.85)
2854 Amends 2011 budget (Special)
2855 Condemnation and acquisition of property (Special)
2856 Repeals and replaces Ch. 5.60, itinerant merchants (5.60)
2857 Amends §§ 14.03.500, 14.07.005, 14.15.020(18), 14.15.050(2)(f), 14.15.062, 14.15.070, 14.15.120, 14.15.220, 14.18.010 and 14.32.050, water and sewers (14.03, 14.07, 14.15, 14.18, 14.32)

2858 Amends §§ 22A.010.160 and 22D.030.070, amendments and traffic impact fees (22A.010, 22D.030)
2859 Amends Ch. 2.45, jail/detention facilities (2.45)
2860 Amends 2011 budget (Special)
2861 Adds § 3.64.020(4); amends §§ 3.64.020(2) and (3), utilities tax (3.64)
2862 Amends §§ 2.51.040(1) and (2), salary commission (2.51)
2863 Condemnation and acquisition of property (Special)
2864 Adds Ch. 3.87, natural gas tax (3.87)
2865 Adopts 88th Street master plan; adds Ch. 22C.085; amends § 22A.010.160, land use standards (22A.010, 22C.085)
2866 Amends § 5.48.030, Strawberry Festival permit fees (5.48)
2867 Moratorium on establishment of medical marijuana dispensaries and collective gardens (Special)
2868 Bond issuance (Special)
2869 Condemnation and acquisition of property (Special)
2870 Adds Ch. 22C.270; amends §§ 22A.010.160, 22A.020.020, 22A.020.200, 22C.010.290, 22C.020.250 and 22G.090.670, solar energy systems (22A.010, 22A.020, 22C.010, 22C.020, 22C.270, 22G.090)
2871 Amends § 3.51.020(7), petty cash (3.51)
2872 Amends 2011 budget (Special)
2873 Amends Chs. 4.02 and 6.24, nuisances and enforcement (4.02, 6.24)
2874 Rezone (Special)
2875 Adds new Ch. 9.04; repeals Ords. 2378, 2532 and 2739, fire code (9.04)
2876 Amends Chs. 16.04, 16.08, 16.10 and 16.28, building codes (16.04, 16.08, 16.10, 16.28)
2877 Rezone (Special)
2878 2012 EMS tax levy (Special)
2879 2012 tax levy (Special)
2880 Amends § 3.64.020(1) and (2), utility tax on telephone services (Expired)
2881 Adopts 2012 budget; amends §§ 14.07.060, 14.07.070 and 14.29.050 [14.19.050], utility rates (14.07, 14.19)
2882 Extends moratorium on establishment of medical marijuana dispensaries and collective gardens (Special)
2883 Bonds issuance (Special)
2884 Amends § 3.69.010, surface water utility gross receipts tax (3.69)
2885 Amends § 3.65.010, water and sewer department gross receipts tax (3.65)
2886 Adds Ch. 6.28, stay out of drug areas (SODA) orders (6.28)
2887 Amends Ch. 6.37, pedestrian interference – coercive solicitation (6.37)
2888 Amends Ch. 6.30, public indecency – prostitution – sex crimes (6.30)
2889 Continues the Central Marysville annexation sales and use tax (3.85)
2890 Amends §§ 9.20.070 and 9.20.080, fireworks (9.20)
2891 Amends § 2.04.020, council meetings (2.04)
2892 Adopts 2011 sewer comprehensive plan (Special)
2893 Amends 2012 budget (Special)
2894 Amends §§ 22A.010.160, 22G.090.170, 22G.090.380 and 22G.100.120, plat extensions (22A.010, 22G.090, 22G.100)
2895 Adds § 2.45.050, jail alternatives (2.45)
2896 Adopts 2012 – 2016 community development block grant consolidated plan (Special)
2897 Adds Ch. 2.92, citizen advisory committee for housing and community development (2.92)
2898 Amends §§ 6.76.030, 22A.010.160, 22A.020.020, 22C.010.060, 22C.010.070, 22C.010.310, 22C.010.380, 22C.020.060, 22C.020.070, 22C.020.330, 22C.130.030, 22C.160.140, 22C.160.160, 22C.180.020, 22C.220.070 and 22G.010.420, unified development code (6.76, 22A.010, 22A.020, 22C.010, 22C.020, 22C.130, 22C.160, 22C.180, 22C.220, 22G.010)
2899 Extends moratorium on establishment of medical marijuana dispensaries and collective gardens (Special)
2900 Adds § 10.04.315, chickens (10.04)
2901 Repeals and replaces Ch. 5.46, special events (5.46)
2902 Condemnation, appropriation, taking and damaging of property (Special)
2903 Amends 2012 budget (Special)
2904 Amends §§ 22D.020.030, 22D.030.070(8) and 22D.040.060, development impact fees (22D.020, 22D.030, 22D.040)
2905 Amends § 14.07.010, capital improvement charges (14.07)
2906 Adds Ch. 22J.090, industrial pilot program, living wage incentive (22J.090)
2907 Amends § 22D.030.070, temporary enhanced discount (22D.030)
2908 2013 EMS tax levy (Special)
2909 2013 tax levy (Special)
2910 Amends § 3.64.020(1) and (2), utility tax on telephone services (Expired)
2911 Adopts 2013 budget (Special)
2912 Amends comprehensive plan (Repealed by 2976)
2913 Adds § 22G.010.205; amends § 22A.010.160, land use application expiration (22A.010, 22G.010)
2914 Adds Ch. 22G.120; amends § 22A.010.160, site plan review (22A.010, 22G.120)
2915 Amends 2012 budget (Special)
2916 Amends §§ 14.07.060, 14.07.070 and 14.19.050, water, sewer and surface water utility rates (14.07, 14.19)
2917 Continues the Central Marysville annexation sales and use tax (3.85)

2918 Amends §§ 14.07.005, 14.07.010, 14.19.050 and 14.19.080, water, sewer and surface water utility rates (14.07, 14.19)
2919 Adds § 6.82.173; amends § 6.82.190, smoking and tobacco use in public parks (6.82)
2920 Amends § 12.02A.090, frontage improvement requirements (12.02A)
2921 Amends comprehensive plan (Special)
2922 Amends Smokey Point master plan and § 22A.010.160, Smokey Point master plan design guidelines (22A.010)
2923 Amends §§ 22A.010.160 and 22G.030.020; repeals and replaces Ch. 22C.110, land use standards, fees (22A.010, 22C.110, 22G.030)
2924 Amends § 14.05.030, utility bills (14.05)
2925 Amends Ch. 6.28, stay out of drug area orders (6.28)
2926 Rezone (Special)
2927 Amends §§ 22A.010.160, 22C.010.290, 22C.010.320, 22C.010.330, 22C.010.340, 22C.010.350, 22C.010.360, 22C.020.240, 22C.020.250, 22C.020.270, 22C.020.280, 22C.020.290, 22C.020.300 and 22C.020.310, development regulations (22A.010, 22C.010, 22C.020)
2928 Rezone (Special)
2929 Rezone (Special)
2930 Amends § 11.62.020, truck routes (11.62)
2931 Amends § 16.20.050, board of appeals designated appeals commission (16.20)
2932 Amends §§ 22A.020.040, 22A.020.140, 22C.020.060 and 22C.020.070, medical cannabis provisions (22A.020, 22C.020)
2933 Bond issuance (Special)
2934 Bond issuance (Special)
2935 Adopts 2013-2018 capital facilities plan; amends 2013 budget (Special)
2936 Moratorium on production, sale and use of marijuana and marijuana products (Expired)
2937 Amends Chs. 3.16 and 3.60, local improvements (3.16, 3.60)
2938 Adds Ch. 12.06, transportation benefit district (12.06)
2939 Amends § 22E.030.090, environmental standards (22E.030)
2940 Amends § 7.08.030, garbage collection (7.08)
2941 Adopts 2014 budget (Special)
2942 2014 tax levy (Special)
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2945 Condemnation, appropriation, taking and damaging of property (Special)
2946 Amends § 3.64.020(1) and (2), utility tax on telephone services (Expired)
2947 Continues the Central Marysville annexation sales and use tax (3.85)
2948 Amends §§ 14.07.060, 14.07.070 and 14.19.050, water, sewer and surface water utility rates (14.07, 14.19)
2949 Amends 2013 budget (Special)
2950 Adds §§ 6.24.050(30) through (34); repeals Ch. 7.04, unsanitary conditions, nuisances (6.24)
2951 Amends §§ 4.02.040(3)(g) and (4), 5.02.140, 5.26.020, 6.03.120, 6.76.120, 7.08.150, 9.04.109.3, 9.04.109.4, Chs. 12.36, 12.40, §§ 14.01.070 and 22E.010.400, penalties (4.02, 5.02, 5.26, 6.03, 6.76, 7.08, 9.04, 12.36, 12.40, 14.01, 22E.010)
2952 Amends 2013 budget (Special)
2953 Amends Ch. 12.20, bicycles and other nonmotorized, wheeled transportation on sidewalks (12.20)
2954 Approves and confirms assessments, LID No. 71 (Special)
2955 Adds § 22E.020.210; amends §§ 22A.020.200, 22E.020.030 and 22E.020.150, floodplain management (22A.020, 22E.020)
2956 Approves and confirms assessments, LID No. 71 (Special)
2957 Bond issuance (Special)
2958 Biennial budget process (3.04)
2959 Adds §§ 22C.010.070(48) and 22C.020.070(69); amends §§ 22A.020.040, 22A.020.140, 22A.020.190, 22A.020.220, 22C.010.060 and 22C.020.060, marijuana (22A.020, 22C.010, 22C.020)
2960 Amends § 2.88.020, disability board (2.88)
2961 Amends Ch. 2.16, civil service commission (2.16)
2962 Amends §§ 11.08.070, 11.08.080 and 11.08.250, disabled parking (11.08)
2963 Amends 2014 budget (Special)
2964 Repeals Ch. 1.16, public records (Repealer)
2965 Condemnation and acquisition of property; repeals Ord. 2703 (Special)
2966 Condemnation and acquisition of property; repeals Ord. 2685 (Special)
2967 Amends Ord. 2957, bond issuance (Special)
2968 Amends § 6.76.080, noise regulation variances (6.76)
2969 Moratorium on master planned senior communities (Repealed by 2980)
2970 Adds Ch. 6.23; amends § 22G.060.090, chronic nuisance properties (6.23)
2971 Adds §§ 6.37.045 and 6.37.047, pedestrian interference – coercive solicitation (6.37)
2972 Adopts 2015-2016 budget (Special)
2973 2015 EMS tax levy (Special)
2974 Amends § 3.64.020(1), utilities tax (3.64)
2975 Amends §§ 14.07.060, 14.07.070 and 14.19.050, water, sewer and surface water utility rates (14.07, 14.19)
2976 Amends comprehensive plan; repeals Ord. 2912 (Special)
2977 Amends 2014 budget (Special)
2978 Continues the Central Marysville annexation sales and use tax (3.85)
2979 Amends §§ 22A.010.160, 22A.020.040, 22C.020.070, 22C.110.020 and 22C.110.030, caretaker's quarters (22A.010, 22A.020, 22C.020, 22C.110)

2980 Amends §§ 22A.010.160 and 22C.020.060; repeals Ord. 2969, master planned senior communities (22A.010, 22C.020)
2981 Adds §§ 22C.020.070(70), 22G.010.270, 22G.010.280, 22G.090.185, 22G.090.385, 22G.100.125 and 22G.120.390; amends §§ 22A.010.160, 22C.020.060, 22G.010.150, 22G.010.250, 22G.010.260, 22G.030.020 and 22G.090.380; amends and renumbers §§ 22G.010.340 to be 22G.010.360, 22G.010.360 to be 22G.010.380, 22G.010.370 to be 22G.010.390, 22G.010.450 to be 22G.010.470, 22G.010.510 to be 22G.010.530 and 22G.010.520 to be 22G.010.540; renumbers §§ 22G.010.270 to be 22G.010.290, 22G.010.280 to be 22G.010.300, 22G.010.290 to be 22G.010.310, 22G.010.300 to be 22G.010.320, 22G.010.310 to be 22G.010.330, 22G.010.320 to be 22G.010.340, 22G.010.330 to be 22G.010.350, 22G.010.350 to be 22G.010.370, 22G.010.380 to be 22G.010.400, 22G.010.390 to be 22G.010.410, 22G.010.400 to be 22G.010.420, 22G.010.410 to be 22G.010.430, 22G.010.420 to be 22G.010.440, 22G.010.430 to be 22G.010.450, 22G.010.440 to be 22G.010.460, 22G.010.460 to be 22G.010.480, 22G.010.470 to be 22G.010.490, 22G.010.480 to be 22G.010.500, 22G.010.490 to be 22G.010.510, 22G.010.500 to be 22G.010.520, 22G.010.530 to be 22G.010.550 and 22G.010.540 to be 22G.010.560; repeals and replaces § 22G.090.170; repeals § 22G.090.280, legislative enactments (22A.010, 22C.020, 22G.010, 22G.030, 22G.090, 22G.100, 22G.120)
2982 Amends §§ 22A.010.160, 22C.100.030(3) and 22C.100.040(3), nonconforming situations (22A.010, 22C.100)
2983 Amends §§ 22A.010.160, 22A.020.140, 22C.160.170(10), 22C.160.180(5) and 22C.160.240(1)(b), sign code (22A.010, 22A.020, 22C.160)
2984 Adds § 10.04.335, beekeeping (10.04)
2985 Adds §§ 22C.020.070(70) and (71) [(71) and (72)]; amends §§ 10.04.460, 22A.010.160, 22A.020.120, 22A.020.170 and 22C.020.060, pet daycares and kennels (10.04, 22A.010, 22A.020, 22C.020)
2986 Amends §§ 22A.010.160, 22D.020.090(5), 22D.020.100(2)(a), 22D.030.070(9)(a)(iv), 22D.040.050(4)(b) and 22D.040.060(4)(a), term for expending impact fees (22A.010, 22D.020, 22D.030, 22D.040)
2987 Adds [amends] § 22E.030.090; amends § 22A.010.160, State Environmental Policy Act (22A.010, 22E.030)
2988 Adds § 22C.250.030(7); amends § 22A.010.160, State Environmental Policy Act (22A.010, 22C.250)
2989 Amends §§ 22A.010.160, 22E.010.280, 22E.010.300 and 22E.010.310, critical areas management – geologic hazards (22A.010, 22E.010)

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