

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. 3192

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, RELATING TO LAND USE AND ZONING; ESTABLISHING A PLANNED ACTION PROCESS FOR THE DOWNTOWN MASTER PLAN; PROVIDING FOR THE ESTABLISHMENT OF MITIGATION MEASURES AND CONDITIONS FOR APPROVAL OF PROJECTS LOCATED WITHIN DOWNTOWN MARYSVILLE; PROVIDING FOR A STREAMLINED REVIEW AND APPROVAL OF PROJECTS WHICH MEET PLANNED ACTION CRITERIA; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR AN EXPIRATION DATE.

WHEREAS, the Governor’s Task Force on Regulatory Reform recommended changes to state law that would enable local governments to consolidate environmental review of plans prepared under the Washington State Growth Management Act (GMA); and

WHEREAS, both the State Environmental Policy Act (SEPA) and Chapter 36.70B Revised Code of Washington (RCW) provide for the integration of environmental review with project review through the establishment of “Planned Action;” and

WHEREAS, Planned Actions expedite the permitting process where substantial planning and environmental analysis have been done prospectively for specific geographic areas that are less extensive than the municipality’s jurisdictional boundaries or that are for certain types of development; and

WHEREAS, RCW 43.21C.031 and Washington Administrative Code (WAC) 197-11-164 to 197-11-172 call for and govern the application of a Planned Action designation; and

WHEREAS, the City of Marysville has adopted a comprehensive plan for the Marysville Urban Growth Area under the provisions of Chapter 36.70A RCW; and

WHEREAS, the comprehensive plan provides for the adoption of a subarea plan for the geographic area located within the urban growth boundary commonly known as the Downtown Master Plan Area, which subarea plan provides for the future build out of the Downtown Master Plan Area in a manner consistent with the comprehensive plan and community vision; and

WHEREAS, the Community Development Department has conducted a thorough review of the development anticipated within the Downtown Master Plan Area and prepared and adopted a Supplemental Environmental Impact Statement (SEIS) under the SEPA, Chapter 43.21C RCW, which environmental analysis has considered the impacts of the anticipated development of the Downtown Master Plan Area consistent with the subarea plan, and provides for mitigation measures and other conditions to ensure that such future development will not create adverse environmental impacts; and

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

WHEREAS, the City, in reviewing and amending its development regulations has complied with the notice, public participation and processing requirements established by the Growth Management Act, as more fully described below; and

WHEREAS, the City Council of the City of Marysville finds that from time to time it is necessary and appropriate to review and revise provisions of the City's municipal code and development code (MMC Title 22); and

WHEREAS, the development code amendment is consistent with the following required findings of MMC 22G.010.520:

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

WHEREAS, the City of Marysville has submitted the proposed development regulation revisions to the Washington State Department of Commerce on August 6, 2021 (Material ID 2021-S-2994) seeking expedited review under RCW 36.70A.106(3)(b) and in compliance with the procedural requirements of RCW 36.70A.106; and

WHEREAS, on September 14, 2021, the Marysville Planning Commission held a duly advertised public hearing on the Downtown Master Plan, Final SEIS and Planned Action Ordinance to allow an opportunity for public comment as required by WAC 197-11-168 and approved a recommendation to forward the Downtown Marysville Master Plan and Planned Action to the Marysville City Council for approval; and

WHEREAS, at a public meeting on September 27, 2021, the Marysville City Council reviewed and considered the Marysville Planning Commission's Recommendation and proposed amendments to the City's development regulations; and

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

Section 1. Amendment of Municipal Code. MMC Section 22E.040.020, entitled "Findings," is hereby amended as follows:

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,~~ [MMC 22E.040.070](#), 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.

Section 2. Amendment of Municipal Code. MMC Section 22E.040.030, entitled "Procedure and criteria for evaluating and determining projects as planned actions," is hereby amended as follows:

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 in MMC 22E.040.050~~ and the mitigation measures described in ~~MMC 22E.040.070 the mitigation document attached to Ordinance No. 2787 as Attachment A,~~ [MMC 22E.040.070](#), 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 [MMC 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 [MMC 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) per MMC 22E.040.050;~~

(e) The project's probable significant environmental impacts have been adequately addressed and analyzed in the downtown plan and SEIS, as defined below:

(i) Marysville Downtown Master Plan and Planned Action Final SEIS, dated September 27, 2021 and associated DRAFT SEIS, dated February 25, 2021.

(ii) Marysville Downtown Master Plan Final SEIS, dated October 9, 2009 and associated Draft SEIS, dated July 20, 2009.

(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 MMC 22E.040.070)~~ 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 unless an essential public facility is accessory to or part of a residential, office, school, commercial, recreational, service, or industrial development that is designated a planned action under this subsection, per RCW 43.21C.440.

(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 application required by MMC Chapter 22G.010-MMC, Article IV, Land Use Application Requirements. The community development director's determination shall be appealable in accordance with MMC 22G.010.310550.

(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 MMC Chapter 22G.010-MMC, Article V, Code Compliance and Director Review Procedures. The community development director shall prescribe a SEPA review procedure consistent with MMC 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.040.040060.

Section 3. Amendment of Municipal Code. A new section entitled "Planned Action Area" is hereby incorporated into MMC Chapter 22E.040 *Downtown Planned Actions*, and shall read as follows:

22E.040.040 Planned Action Area

This "Planned Action" designation shall apply to the area shown in Figure 1 of this section.

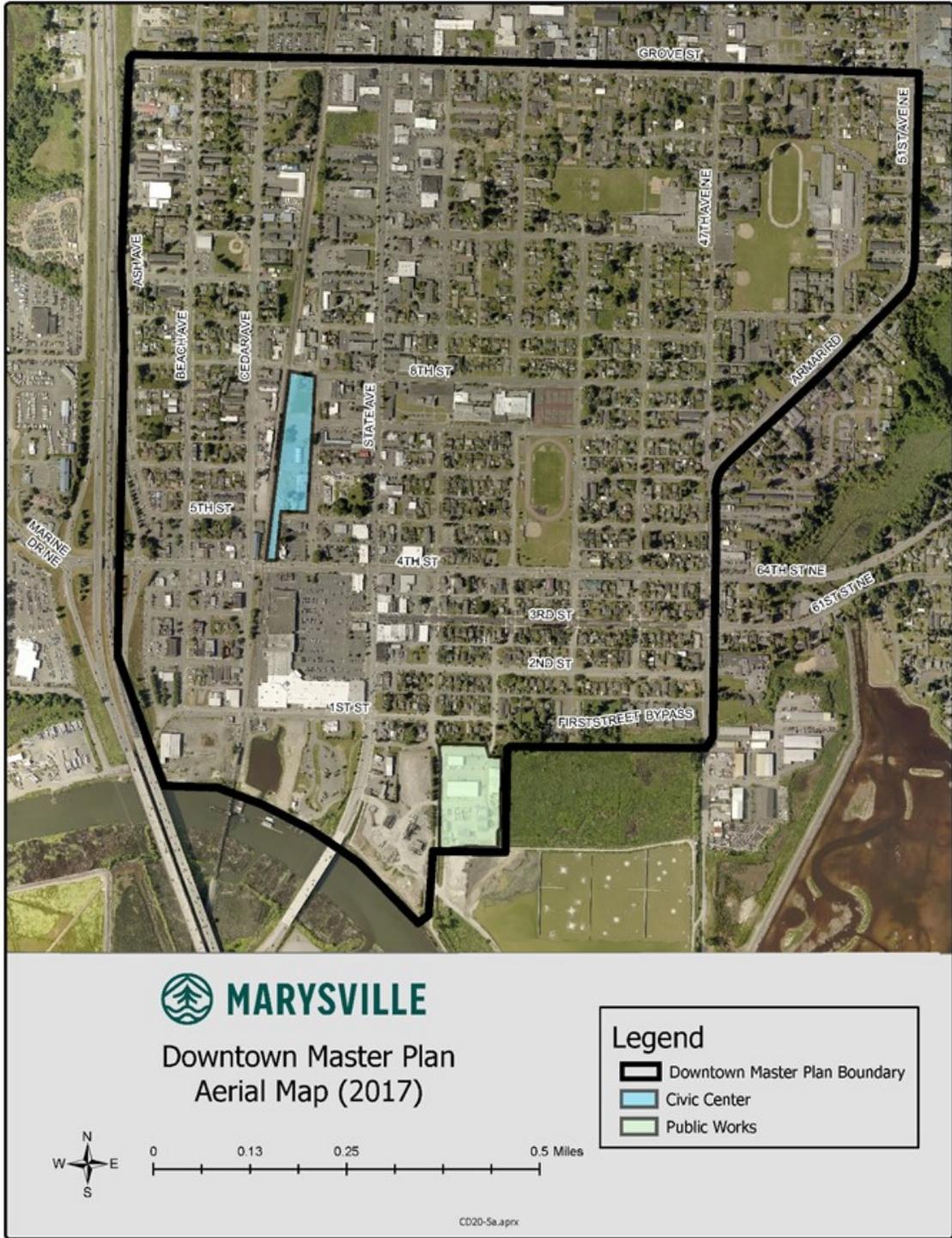


Figure 1: Downtown Planned Action Area

Section 4. Amendment of Municipal Code. A new section entitled “Land Use and Transportation Thresholds” is hereby incorporated into MMC Chapter 22E.040 *Downtown Planned Actions*, and shall read as follows:

22E.040.050 Land Use and Transportation Thresholds

The following thresholds shall be used to determine if a site-specific development proposed within the Planned Action Area was contemplated as a Planned Action Project and has had its environmental impacts evaluated in the Planned Action SEIS:

(1) Qualifying Land Uses.

(a) Planned Action Categories: The following general categories/types of land uses are defined in the Downtown Plan and can qualify as Planned Actions:

- (i) Single-Family and Accessory Dwelling Units
- (ii) Townhome/Multiplex
- (iii) Multifamily
- (iv) Industrial
- (v) Office
- (vi) Retail
- (viii) Mixed uses
- (ix) Open Space, Parks, Trails, Recreation, Gathering Spaces
- (x) Street and non-motorized circulation improvements consistent with the Transportation evaluation in the Planned Action SEIS.
- (xi) Civic, Cultural, Governmental and Utility Facilities as allowed in the Zoning Code.

(xii) Other uses allowed in the Zoning regulations applicable to the Planned Action Area.

(b) Planned Action Project Land Uses: A primary land use can qualify as a Planned Action Project land use when:

- (i) it is within the Planned Action Area as shown in MMC 22E.040.040 of this Ordinance;
- (ii) it is within one or more of the land use categories described in Subsection (1)(a) above; and
- (iii) it is listed in development regulations applicable to the zoning classifications applied to properties within the Planned Action Area.

A Planned Action Project may be a single Planned Action land use or a combination of Planned Action land uses together in a mixed-use development. Planned Action land uses may include accessory uses.

(c) Public Services: The following public services, infrastructure, and utilities can also qualify as Planned Actions: streets and non-motorized improvements, utilities, parks, trails, civic, cultural, governmental, and similar facilities developed consistent with the Planned Action SEIS mitigation measures, City design standards, critical area regulations, and the Marysville Municipal Code.

(2) Development Thresholds:

(a) Land Use: The following thresholds of new land uses in Table 1 are contemplated by the Planned Action:

Table 1: Action Alternative Growth and Comparison to No Action

	<u>No Action</u>	<u>Action</u>
<u>Residential</u>	<u>1,885</u>	<u>2,579</u>
<u>Jobs</u>	<u>1,360</u>	<u>1,828</u>

(b) Shifting development amounts between land uses in identified in Subsection (2)(a) may be permitted when the total build-out is less than the aggregate amount of development reviewed in the Planned Action SEIS; the traffic trips for the preferred alternative are not exceeded; and the development impacts

identified in the Planned Action SEIS are mitigated consistent with MMC 22E.040.070.

(3) The number of new PM peak hour trips anticipated in the Planned Action Area and reviewed in the Planned Action EIS are outlined in Table 2:

Table 2: 2035 Action Alternative Estimated Weekday PM Peak Hour Trip Generation

<u>Alternative</u>	<u>Inbound</u>	<u>Outbound</u>	<u>Total</u>
<u>Action Alternative</u>	<u>4,176</u>	<u>4,339</u>	<u>8,515</u>

Transportation improvements identified within the Comprehensive Plan are needed to support the expected land use. Transportation mitigation shall be provided consistent with mitigation measures in Section 22E.040.070(4).

(4) Further environmental review may be required pursuant to WAC 197-11-172, if any individual Planned Action Project or combination of Planned Action Projects exceeds the development thresholds specified in this Ordinance and/or alter the assumptions and analysis in the Planned Action SEIS.

Section 5. Amendment of Municipal Code. MMC Section 22E.040.040, entitled “Review and approval of planned action projects,” is hereby amended as follows:

22E.040.040060 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.010.310550; 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 MMC 22E.040.070)~~, the downtown master plan, or SEIS shall be afforded substantial weight.

Section 6. Amendment of Municipal Code. MMC Section 22E.040.050, entitled “Environmental documents,” is hereby amended as follows:

22E.040.050070 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 ~~listed below, 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.040.040060~~.

(1) Surface Water/ Water Resources: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) Compliance with the Marysville stormwater management manual and associated municipal codes in MMC Title 14 Water and Sewer including but not limited to water quality treatment system installation and low impact development (LID) improvement studies and plans and system maintenance.

(b) Compliance with federal or state permits (Clean Water Act, Endangered Species Act) for specific work that may require filling or dredging below the ordinary high water mark in Ebey Slough and state (Washington Department of Natural Resources) and tribal commitments for in-water projects.

(c) Conditions of approval for stormwater management as determined by the City to respond to water quality monitoring from the Allen Creek basin as the result of development and operations that discharge without end of pipe treatment.

(2) Land and Shoreline Use and Aesthetics: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) Form based code standards in MMC 22C.080 Downtown Master Plan Area – Design Requirements, regarding zoning and land uses; street design, circulation and parking; block frontages; site planning; and building design.

(3) Socioeconomics: Where applicable, Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) Form based code standards in MMC 22C.080.

(b) MMC Chapter 22C.090 Residential Density Incentives.

(c) MMC Chapter 3.103 Multifamily Housing Property Tax Exemption.

(4) Transportation: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) Concurrency, Traffic Impact Fee, and Road System Obligations: All new development shall be subject to concurrency determinations, meet road system obligations, and pay a transportation impact fee based on the number of new weekday PM peak hour trips generated by the development pursuant to MMC Chapter 22D.030 Traffic Impact Fees and Mitigation. To fulfill road system obligations, the City may require proportionate share of improvements included in the Downtown Master Plan and designed to add capacity to the road system but not otherwise incorporated into the impact fee.

(b) Commute Trip Reduction (CTR): Meet applicable requirements of MMC Chapter 11.52 Commute Trip Reduction (CTR) Plan.

(c) Form based code standards in MMC 22C.080 including but not limited to street design, circulation and parking; block frontages; site planning; and building design. Planned actions shall implement required cross sections pursuant to the form-based code and Downtown Master Plan. Where City construction standards and specifications conflict, the form-based code and Downtown Master Plan shall control.

(5) Public Services: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) New development will be required to comply with provisions of MMC Title 9 Fire.

(b) New development is subject to collection of school impact fees under MMC Chapter 22D.040 School Impact Fees and Mitigation.

(c) New development is subject to collection of parks impact fees under MMC Chapter 22D.020 Parks, Recreation, Open Space and Trail Impact Fees and Mitigation.

(6) Utilities: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) Ascertain from the City adequate sewer and water availability, and provide adequate fire flow, consistent with MMC Title 14 Water and Sewers.

(b) Demonstrate water efficiency practices associated with new development including but not limited to: WaterSense or equivalent water efficient products in buildings and native and drought tolerant plants consistent with MMC 22C.120.050. Consistency with any approved City master utility plans that identify system improvements necessary for development.

(d) Compliance with energy efficiency requirements, including but not limited to, MMC Chapter 16.10 Washington State Energy Code.

(7) Earth, Streams, Wetlands, Fish and Wildlife: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) MMC Chapter 22E.010 Critical Areas Management.

(b) MMC Chapter 22E.020 Floodplain Management.

(c) MMC Chapter 22E.050 Shoreline Management Master Program.

(d) Mitigation referenced in subsection (1) Surface Water/ Water Resources.

(8) Environmental Health: Planned Action Applications shall demonstrate consistency with the following requirements to the satisfaction of the SEPA Responsible Official or their designee:

(a) State of Washington Model Toxics Control Act, where applicable.

(b) Mitigation referenced in subsection (1) Surface Water/ Water Resources.

Section 7. Amendment of Municipal Code. MMC Section 22E.040.060, entitled "Conflict of development regulations and standards," is hereby amended as follows:

22E.040.060080 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.

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

"22A.010.160 Amendments.

The following amendments have been made to the UDC subsequent to its adoption:

Ordinance Title (description) Effective Date
3192 MMC Chapter 22E.040 Downtown Planned Actions October 5, 2021"

Section 9. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

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

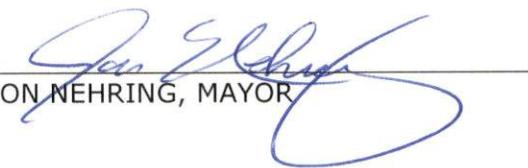
Section 11. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

Section 12. Expiration Date. This ordinance shall expire twenty (20) years from the effective date unless otherwise repealed or readopted following a public hearing.

PASSED by the City Council and APPROVED by the Mayor this 27 day of September, 2021.

CITY OF MARYSVILLE

By:


JON NEHRING, MAYOR

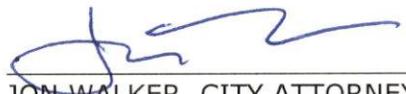
Attest:

By:


DEPUTY CITY CLERK

Approved as to form:

By:


JON WALKER, CITY ATTORNEY

Date of Publication:

9/30/2021

Effective Date:

10/5/2021

(5 days after publication)