



# McCleary City Council

## AGENDA

**August 27, 2014**

### 7:00 City Council Meeting

Flag Salute  
Roll Call  
Public Hearings:  
Public Comment:

Minutes: (Tab A)  
Mayor's Report/Comments:

Staff Reports: Dan Glenn, City Attorney (Tab B)  
Todd Baun, Director of Public Works (Tab C)  
Staff Reports (Tab D)

Old Business: Marijuana Hearing Examiner & Attorney Recommendations (Tab E)

New Business: Skillings Connolly 3<sup>rd</sup> St. Design Presentation  
Community Planning Assistance Team (Tab F)  
Water Body Naming (Tab G)  
TIB Funding Application (Tab H)  
REED Account (Tab I)  
HB 1632 (Tab J)

Ordinances: Marijuana (Tab K)

Resolutions:

Vouchers  
Mayor/Council Comments  
Public Comment  
Executive Session  
Adjournment

Americans with Disabilities Act (ADA)  
Accommodation is Provided Upon Request

Please Turn Off Cell Phones – Thank You

The City of McCleary is an equal opportunity provider and employer.  
La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador.

**CITY OF MCCLEARY**  
**Regular City Council Meeting**  
**Wednesday, July 23, 2014**

ROLL CALL AND FLAG SALUTE Councilmember's Reed, Schiller, Catterlin and Peterson.

ABSENT Ben Ator was absent and asked to be excused. **It was moved by Councilmember Reed, seconded by Councilmember Schiller to excuse Councilmember Ben Ator. Motion Carried 4-0.**

STAFF PRESENT Present at the meeting were Todd Baun, Wendy Collins, George Crumb, Dan Glenn.

PUBLIC HEARING None.

PUBLIC COMMENT Doug Krikava asked if someone from the City can contact the railroad regarding the pile of rails that is off of Summit Road that is on the aquifer and is very ugly to the eye. Todd Baun said he will contact them.

MAYOR'S COMMENTS None.

MINUTES APPROVED **It was moved by Councilmember Peterson, seconded by Councilmember Catterlin to approve the minutes from the June 25, 2014 meeting. Motion Carried 4-0.**

DIRECTOR OF PUBLIC WORKS REPORT Todd Baun recognized the City crew for their hard work on the Bear Festival. Councilmember Schiller asked about the new employee. Mayor Dent said we do have a new Utility Accounts Manager and she is catching on really quick.

CITY ATTORNEY REPORT Dan Glenn reported that Elma City Council has opted to modify their approach to the marijuana issue. They will allow manufacturing and growing but will prohibit medical use, collective gardens and retail sales.

Councilmember Schiller attended the public hearing and it was a small turn out. There wasn't much stance from anybody either for or against it and with only four people attending, there really wasn't a voice representing the community. He believes we really need to take a stance one way or the other.

The Hearing Examiner's report will be coming and the Council will have the choice of either having a separate hearing or moving forward with his findings and conclusions and accepting or rejecting those. Councilmember Catterlin would like to have a Council workshop to discuss this issue and come to an agreement so we can get it settled.

BPA CONTRACT REVISION #1 **It was moved by Councilmember Catterlin, seconded by Councilmember Reed to authorize the Mayor to sign Revision No. 1 to Exhibit G, Principles of Non-Federal Transfer Service, of the City of McCleary Power Sales Agreement, BPA Contract No. 09PB-13069. Motion Carried 4-0.**

ORDINANCE NO. 803 INDEMNIFICATION This is an ordinance in relation to indemnification, adding a new chapter to Title 2 of the municipal code. Councilmember Catterlin contacted MRSC and was told this is very common. **It was moved by Councilmember Catterlin, seconded by Councilmember Peterson to Adopt Ordinance No. 803. Roll Call taken in the affirmative. Ordinance Adopted 4-0.**

MARIJUANA PROHIBITION Tabled.

APPROVAL OF VOUCHERS Accounts Payable vouchers/checks approved were 38204- 38244 including EFT's in the amount of \$47,090.56 and 38272- 38324 including EFT's in the amount of \$149,978.43.

Payroll vouchers/checks approved were 37997 - 38076 including EFT's in the amount of \$144,405.58 and 38118 - 38203 including EFT's in the amount of \$116,415.87.

**It was moved by Councilmember Reed, seconded by Councilmember Peterson to approve the vouchers. Motion Carried 4-0.**

PUBLIC COMMENT Councilmember Catterlin asked Dan Glenn if he prepared the mailing that the City sent out regarding the levy. Mr. Glenn responded that he did prepare it.

Mayor Dent added the City has received notice from WCIA (Washington Cities Insurance Authority) that they have responded to the lawsuit for \$1.7 million dollars and they are refusing to litigate it due to no grounds to sue.

EXECUTIVE SESSION

None.

MEETING ADJOURNED

**It was moved by Councilmember Peterson, seconded by Councilmember Reed to adjourn the meeting at 7:15 PM. The next meeting is scheduled for July 23, 2014 at 7:00 PM. Motion Carried 4-0.**

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL, City of McCleary  
FROM: DANIEL O. GLENN, City Attorney  
DATE: August 21, 2014  
RE: LEGAL ACTIVITIES as of AUGUST 27, 2014

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. **ZONING ORDINANCE:** You have now received Mr. Aaland's report, which includes recommendations. It is on tonight for an initial decision as to whether you wish to schedule your own public hearing with printed notice or to accept the record developed by Mr. Aaland. My advice is the latter. Also, note that his recommendations are precisely that and you have the final say as to what is adopted. Of course, his record can and should be used as the basis for action. You can simply reach a different conclusion from that record, if you so desire.

Prior to your taking formal action on the matter, the SEPA rules appear to mandate a checklist being completed by Mr. Baun and its being submitted to Mr. Mercer for review and issuance of a decision. Assuming that the decision is that it is not a significant environmental action, we can move forward with your formal consideration of the approach to take.

For your review at this stage, I am providing copies of the original draft submitted to Mr. Aaland, which does not provide that any of the uses authorized under I 502 or any use authorized under RCW 69.51A (medical cannabis) would be either a permitted or conditional use within any zone in the City. I am also providing a draft akin to that adopted by Elma which authorizes growing and processing operations licensed by the LCB as a permitted use in the Industrial zone. (I would note that the Elma Council took an initial tentative position to not allow any of the activities in any zone, then moved to allowing the growing and processing activities in the I zone as a conditional

**MEMORANDUM - 1**

CITY OF McCLEARY  
100 SOUTH 3RD STREET  
McCLEARY, WASHINGTON 98557

use, and then finally simply allowed those two uses as a permitted use.) If any of you would like a draft implementing Mr. Aaland's recommendations, I can prepare that as well. I am providing Memorandum from the Olympic Region Clean Air Agency (ORCA) as to how they are handling these type of facilities in terms of regulation.

In any event, I would recommend that the matter be put on your September 10 agenda for final consideration

2. **OFF-ROAD VEHICLE USE ON-ROAD**: In its wisdom and in response to the ever more present ATVs, the Legislature adopted an extensive bill which, under certain circumstances, allows the operation of what the bill defines as "wheeled all-terrain vehicles" upon roads within the corporate limits of cities so long as the City authorizes such use. The statute sets forth a number of requirements, including licensing, operator criteria, equipment requirements, and the like. I am bringing it to your attention at this stage as the result of an officer of the Elma Police Department contacting me as to its implications. Thus, my assumption is, if such use may be occurring in Elma under a possible failure of folks to recognize the right of each city to make the decision, it likely will occur here as well.

As an initial step, for your information I am providing you pages 1, 4, 6, 7, 8, 9, 10, 11, 12, & 13 of the 38 page bill. (I will send Ms. Collins the electronic version of the entire bill, much of which deals with the allocation of the revenue which will be generated by the licensing requirement.) As you will note, there is no right for a WATV user to operate on a city street in the absence of action of the Council adopting an ordinance. Conversely, the City is prohibited from adding additional conditions.

In any event, I would recommend your reviewing the matter, requesting the recommendation of Chief Crumb, and deciding what action, if any, you wish to take on the subject. In the absence of an ordinance authorizing their use on the streets, they remain a forbidden activity.

3. **OCCUPANCY OF RECREATIONAL VEHICLES & TRAILERS OUTSIDE OF MOBILE HOME PARKS**: Mr. Mercer is currently working through a situation in which a travel trailer has been parked on a lot upon which there is a single family residence. It is being occupied. Currently, the applicable ordinance, which was adopted in 1995, allows such use for thirty days. Back several years ago when I was working through this situation in Elma, I recommended that the matter be revisited, both as to the duration and to clarify that it is a total number of days out of an entire year, not that number of days which can then be "restarted" by moving

it for one day. For whatever reason, no direction was given as to a desired action.

I would ask that you consider authorizing me to provide a draft ordinance based upon what I prepared for Elma. It updates definitions and makes clear that the period, which in Elma's case is 14 days, is 14 days out of a 365 day period.

I will await your direction.

4. **ELECTRIC UTILITY RURAL ECONOMIC DEVELOPMENT REVOLVING FUND:** It is my understanding this particular fund, which was implemented back in 1999 and may be found in Chapter 2.76 MMC, may be the subject of discussion. It was created under the authority of Chapter 311, Sections 401-402, Laws of 1999. Basically, it allowed a credit for electrical utilities such as McCleary's from a tax being paid to the State. That credit could be up to \$25,000.00 per year. The authority to take these credits lapsed, so far as I have determined at this point, in 2005. Ms. Collins has indicated there is approximately \$100,000.00 in that fund and that no disbursements have occurred since 2005. (For your review, I have attached a copy of Chapter 311, as enacted and Chapter 2.76 of the Municipal Code.)

Section 402[1][a] provides the definition of the type of project which may be funded by the reserved moneys. As you will note, the scope of the type of "qualifying project" which may be funded with these moneys is very broad. The decision as to what project is to be funded is one which must be made by the five member Board authorized by Section 2.78.030. The five member board is to be constituted of three public members, a council member chosen by the Council and the Mayor. Bluntly, I have no memory as to whether then serving Mayor John Adams or any mayor since then has created this Board, although there is a reference in Chapter 2.76.040 which would suggest some type of action was taken at the Council's meeting of September 8, 1999.

In any event, if the moneys are not utilized, they must be returned to the State DOR. Thus, as a first step to reactivating the provision, the matter might be referred to the Finance Committee to allow a meeting with Ms. Collins who will, by then, have been able to research more fully the history of utilization of the chapter.

5. **PHILOSOPHICAL ANALYSIS:** As each of you are likely aware, Dilbert is one of my favorite philosophical sources and power point is one of my least favorite items to watch. In that regard, I am attaching a recent Dilbert which speaks for itself.

As always, this is not meant to be all inclusive. If you have any questions or comments, please direct them to me.

DG/le

**STAFF REPORT**

To: Mayor Dent and Councilmember's  
From: Todd Baun, Director of Public Works  
Date: August 27, 2014  
Re: Staff Report

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I will provide a verbal update of activities at the Council Meeting.

**Action Requested:**

None.

# STAFF REPORT

To: Mayor Dent  
From: Colin Mercer  
Date: August 4, 2014  
Re: July Building Department

## Activities

- Submit copies of permits issued to Grays Harbor County Assessor's Office.
- High Definition Homes 500 E Huckleberry is in the framing and rough in stage.
- High Definition Homes 1493 N Summit Road is in the foundation stage.
- The Beehive is in the rough in stage of phase 2 of their project.
- 439 E Mommsen has installed the catch basin and on-site drainage system.
- 116 S 4<sup>th</sup> St has poured the foundation.

## Nuisance Issues in Progress

- 415 S Main Street Dangerous Garage- we have been contacted by two contractors regarding the demolition, expect a demolition permit to be pulled soon.
- 832 N Summit Road dangerous accessory structure was posted to abate the conditions by either demolition or repair..
- Two properties on Mommsen Road have been notified to remove low overhanging trees affecting the right of way.
- Vehicle nuisance on Beck Street.

## Nuisances Resolved

- 315 W Simpson, owner has been notified of the overgrown conditions.
- 795 N Summit overgrown conditions have been addressed.
- 240 Wildcat overgrown conditions have been addressed.
- The owner of the Evergreen Heights vacant lots has addressed the over grown conditions.

## Conservation Program

Month	Applications Received	Conservation Permits Issued	Rebates Paid This Month	Total Rebates Paid To Date
June	1	1	\$2335.00	\$15,796.00
July	1	1	\$774.00	\$16570.00

**Building Department Activity**

<b>ACTIVITY</b>	<b>MONTHLY TOTALS</b>	<b>YEAR TO DATE TOTALS</b>	<b>ACTIVITY EXPLANATION</b>
Customer Service	51	324	Answer building department related questions in person or by phone, meeting with potential applicants.
Building Permits Issued	5	31	Remodels, new construction & additions, both residential and commercial.
Plan Reviews Performed	2	10	Reviewing plans for building code and municipal code compliance.
Inspections Performed	22	110	Field inspections, writing of corrections or approving work.
Finals or Certificates of Occupancies	1	10	Performing of the final inspection & issuing of certificate of occupancy allowing use of the structure.
Complaints Received	2	10	Investigate and address citizen or staff reported issues, obtain resolution or acceptable compromise.
Nuisance Letters Sent	3	39	Formal notice from the City informing citizens of violations and providing expectation of the City for compliance.
Lemay's Garbage Letters Sent	0	26	Formal notice from City after notification from Lemay that service has been stopped.
Building Department Revenue	\$314.50	\$9,677.93	Funds generated by the Building Department from permits, inspections, reviews etc.

**Comments:**

## STAFF REPORT

To: Mayor Dent  
From: Paul Nott, Light & Power  
Date: August 21, 2014  
Re: July Report



	Monthly Statistics;	YTD Totals;
<b>New Services;</b>	2	3
<b>System Outages;</b>	1	8
<b>Pole Replacements;</b>	8	19
<b>Maintenance Work Orders;</b>	3	27
<b>Billable Work Orders;</b>	2	3

The month of July consisted of two new service connections, one system outage, and numerous pole change outs.

We have completed the project on Mommsen Rd. which consisted of a 5 pole rebuild and a 1500' re-conductor. We replaced another pole in the alley west of 4<sup>th</sup> St. in preparation for a new business and also a new service for a new home on Sand Creek.

We had another underground fault on Oak Meadows, once again we had to rely on Mason Co PUD for assistance in locating the fault. Another difficulty that we encountered is that when the contractor installed the wire 30 years ago they installed the primary wire in water pipe not electrical pipe, so once exposed it appeared to be a water service and not electrical. I intend to notify the nearby residents of this safety issue.

Today we were informed that even though seasonal labor is budgeted for 700 hours we will be losing our summer helper at the end of the month due to "budget reasons". We would like to thank Austin for all of his hard work and efforts in assisting us for the 304 hours that he was here. We wish "Big A" ("the get er' done crew") the best in future endeavors and he will truly be missed.

As always if you have any questions feel free to contact us...

In case of a power outage, please contact:

Light and Power Department 360-495-4533  
City Hall 360-495-3667  
Dispatch Non-Emergency 360-533-8765

**Staff Report**

**To: Mayor Dent**  
**From: George M. Crumb, Chief of Police**  
**Date: August 21, 2014**  
**RE: For August 27, 2014 Council Meeting**

**SUMMARY OF POLICE INCIDENTS / ACTIVITIES:**

The below listed information are calls or contacts received by McCleary Police Officers either generated by Grays Harbor County dispatch 911 service, citizen reports, call in reports, contacts, or other officer generated incidents.

\$1424 written in bail amounts for 14 Notice of Infractions, and Criminal incidents. (3 criminal events)

1248 Incident histories reported as of time of this report period (072314 thru 08214/1605) 231 since last report. (Incident History Log will be Available)

05-Speeding Infractions

00-DWLS

00-Speeding in School Zone

02-Burglary

17-Fire Response's

01-Threats Complaint

02-Disorderly Conduct/Obstructing

41-Traffic Stop's

00-Harassment

00-Weapons Offense

27-Agency Assist's

01-Drug Incidents (adult w/meth/jail)

09-Animal Complaints

00-Curfew Violations

00-Assault

03-Welfare Checks

02-Trespass (Criminal)

17-Suspicious Person, Vehicle or Circumstance

02 Extra Patrol Request

12-Police Information or Referral

01-Child Abuse

00-Alcohol Offense

02-Abandon Vehicle

10-Traffic Offense-4/Reckless-0/Hazard-6

03-Unsecure Residence

05-Found-4/Lost Property Reports-1

06-Unknown or No Classification

22-Motorist Assist-6/Citizen Assist-16

02-Fireworks Complaint

04-Theft Reports

02-Municipal code violation

02-Death, report

04-Juvenile Problems-3/Run-a-way-/1-Missing-

06-Malicious Mischief

02-Warrant Arrests-/Search Warrant/Confirm-1

10-911 Open Line or Hang Up

01-Domestic Violence/Verbal Argument-1

02-Citizen dispute-1/Civil-1/Vio Court Order-

01-D.U.I. or Broadcast

02-Audible Alarm

02-Subject Stop

02-Traffic Accident

03-Noise Complaints

01-Fraud

00-Sex Offense

04-Parking Complaint

Council Members Present: ALL... Mr. Catterlin-Position 1, Mr. Reed-Position 2,  
Mr. Peterson-Position 3, Mr. Schiller-Position 4,  
Mr. Ator-Position 5.

Mayor Dent: Present / Not Present \_\_\_\_\_

Officer Reporting: Chief Crumb  \_\_\_\_\_

## **STAFF REPORT**

To: Mayor Dent  
From: Kevin Trewhella, Water & Wastewater manager  
Date: August, 21 2014

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The Water Treatment plant is running very well. There no issues. Other than having one of our Effluent pumps repaired at the Waste Water Treatment plant, there are no operational issues. We are just doing annual maintenance.

## **STAFF REPORT**

To: Mayor Dent

From: Colin Mercer Webmaster

Date: August 4, 2014

Re: July Website

### **Re-Occurring Website Activities**

- Council Agenda/Packet posted online.
- Council Minutes posted online.

### **New Website Activity**

- Posted Utility Accounts Manager position on the City Jobs Tab.
- Posted the Hydrant flushing schedule for the month of July.
- Post 6<sup>th</sup> Annual Fred Keel Golf Tournament information.
- Remove Utility Accounts Manager position after filled.
- Insert Lori-Ann's name to the website for Utility items.

### **Additional Tasks**

- Print and distribute new phone extension cards.
- Updates to the WCIA insurance property schedule, for the New Water Treatment plant and the demolition of the Float Shed.

### **Website Comments:**

None this month.

**Website Traffic July 1, 2014 through July 31, 2014 (Top visited pages shown only)**

Section	Page Views	Percent of Total
<a href="#">Default Home Page</a>	3421	27.62%
<a href="#">Water / Wastewater</a>	969	7.82%
<a href="#">City Jobs</a>	940	7.59%
<a href="#">Bear Festival</a>	640	5.17%
<a href="#">Events Calendar</a>	615	4.96%
<a href="#">City Departments</a>	434	3.5%
<a href="#">Utilities</a>	353	2.85%
<a href="#">Agendas and Minutes</a>	342	2.76%
<a href="#">Municipal Code</a>	258	2.08%
<a href="#">Cemetery Data Page</a>	244	1.97%
<a href="#">Conservation Program</a>	243	1.96%
<a href="#">Mayor and Council</a>	227	1.83%
<a href="#">Police</a>	216	1.74%
<a href="#">Search Results</a>	208	1.68%
<a href="#">Administration</a>	193	1.56%
<a href="#">Public Facilities</a>	186	1.5%
<a href="#">City Forms &amp; Documents</a>	167	1.35%
<a href="#">Light &amp; Power</a>	137	1.11%
<a href="#">Cemetery Photo Page</a>	126	1.02%
<a href="#">Chamber of Commerce</a>	125	1.01%
<a href="#">Home Page</a>	124	1%
<a href="#">Fire</a>	122	0.98%
<a href="#">Planning Department</a>	114	0.92%
<a href="#">FAQ's Page</a>	109	0.88%
<a href="#">Helpful Links</a>	106	0.86%
<a href="#">Cemetery</a>	105	0.85%
<a href="#">2008-14 Budget</a>	87	0.7%
<a href="#">Development Services / Building</a>	77	0.62%
<a href="#">Municipal Court</a>	69	0.56%
<a href="#">Shoreline Master Program</a>	66	0.53%
<a href="#">Interlocal Agreements</a>	65	0.52%
<a href="#">Data Page</a>	61	0.49%
<a href="#">City Photos</a>	59	0.48%
<a href="#">Article III Theft and Possession of Stolen Property</a>	49	0.4%
<a href="#">Email Notification Sign Up</a>	38	0.31%
<a href="#">Previous Years Council Minutes</a>	35	0.28%
<a href="#">Previous Years Council Agendas</a>	23	0.19%
<a href="#">Missing Section</a>	22	0.18%
<a href="#">Title 13 Public Services</a>	22	0.18%
<a href="#">9.82 Public Indecency, Prostitution, Sex Crimes</a>	22	0.18%
<a href="#">Missing Section</a>	21	0.17%
<a href="#">Missing Section</a>	19	0.15%
<a href="#">9.14 Assault, Abuse or Neglect of Patients--Nursing Homes, Etc., AND Other Crimes Involving Physical Harm Or Threat Thereof</a>	17	0.14%
<a href="#">9.34 Firearms, Dangerous Weapons, Explosives, and Hazardous Waste</a>	17	0.14%
<a href="#">Title 15 Buildings and Construction</a>	16	0.13%

City of McCleary Hearing Examiner  
Report and Recommendation

Application: Ordinance prohibiting the establishment of medical marijuana and recreational marijuana businesses

Applicant: City of McCleary  
100 S 3rd Street  
McCleary, WA 98557

***Summary of Request:***

This is an ordinance addressing medical marijuana dispensaries and collective gardens; and production, processing and retailing of recreational marijuana as authorized by Initiative 502. Specifically, the proposed ordinance prohibits the establishment of these businesses within the city of McCleary.

***Summary of Recommendation:*** The Hearing Examiner recommends the City Council adopt the portions of the proposed ordinance that continue the prohibition on medical marijuana but consider adopting provisions allowing for recreational marijuana production, processing, and retail stores.

***Public Hearing:***

A public hearing was conducted on Monday, July 14, 2014 at McCleary City Hall. Present for the city were Neil Aaland, Hearing Examiner and Todd Baun, Director of Public Works. The Examiner explained the hearing process and his role in it.

The Examiner summarized the ordinance for the record. There were no letters from the public.

Susan Carroll, 140 W. Summit Road, said from a property standpoint, federal funds are an issue. Marijuana usage is hard to enforce. She is curious about the tax revenue, whether cities will receive any.

Helen Hamilton, PO Box 150, McCleary is a real estate agent, and she is getting a lot of calls. She doesn't think this is needed in McCleary. She wouldn't mind if it's going to be regulated. She's had 15-20 calls about potential properties. She has heard that the Port of Shelton is building structures for the marijuana industry. She is concerned about the cost to the city.

Nobody else testified. The draft ordinance and supporting materials are incorporated into this report by reference.

***Findings:***

1. The McCleary Municipal Code (MCC) Chapter 2.30 establishes the office of the Hearing Examiner and assigns certain responsibilities to the Examiner.
2. MCC Chapter 17.40.130 and ordinance #790 establishes the responsibility and authority of the Hearing Examiner to hear and make recommendations on matters assigned to him by the Mayor and the City Council.
3. Section 17.40.130 of the MMC provides a process for amending the text of the MMC.
4. Section 17.40.130 (C) of the MMC provides that the Planning Commission will hold a public hearing to review such amendments and submit a recommendation for approval or denial of the request to the City Council within 60 days of the hearing. That section also provides that, if any applicable law, ordinance, rule, or regulation requires the utilization of different time parameters for the particular submission, those parameters shall be used.
5. The Planning Commission is presently inactive.
6. The Mayor and the City Council have assigned to the Examiner the responsibility of conducting the required public hearing and making a recommendation to the City Council for a proposal to revise the MMC. The proposal is the adoption of an ordinance addressing medical marijuana dispensaries and collective gardens; and production, processing and retailing of recreational marijuana as authorized by Initiative 502. Specifically, the proposed ordinance prohibits the establishment of these businesses within the city of McCleary
7. Notice of the hearing was legally advertised on July 3 and July 10, 2014 in the Montesano Vidette.
8. Medical marijuana usage is authorized under the provisions of RCW 69.51A, the Medical Cannabis Act.
9. There is little guidance from the state regarding the implementation of RCW 69.51A.
10. Certain business activities related to recreational marijuana use and sales were authorized by Initiative 502, subject to licensing by the Washington State Liquor Control Board (WSLCB).
11. The WSLCB has adopted Washington Administrative Code Chapter 314-55, which describes the application process, qualifications and requirements to obtain and maintain a marijuana license and the reporting requirements for a marijuana licensee.
12. The Washington State Attorney General's Office has issued an opinion, AGO 2014 #2. AGO 2014 #2 concluded that: "Initiative 502, which establishes a licensing and regulatory system for marijuana producers, processors, and retailers, does not preempt counties, cities, and towns from banning such businesses within their jurisdictions."
13. The McCleary Comprehensive Plan contains no obvious policies that relate to medical marijuana and recreational marijuana.
14. The MMC does not presently address zoning or land use provisions related to medical marijuana and recreational marijuana.
15. The city has determined that the proposed ordinance is not subject to the requirements of the State Environmental Policy Act (SEPA) as provided by WAC 197-11-800(19).

**Conclusions:**

1. There is significant uncertainty, and inadequate guidance from the state, regarding the regulation of medical marijuana establishments.
2. The state has provided detailed provisions and requirements for the establishment, regulation, and enforcement of recreational marijuana production, processing, and retail stores.
3. The Washington State Attorney General has issued its opinion that local governments have the authority to ban recreational marijuana businesses within their jurisdictions, if they so desire.
4. The two citizens that provided testimony at the public hearing expressed concerns about enforcement of provisions related to medical and recreational marijuana. One citizen commented that it would be less of a concern if it were to be regulated.

**Recommendation:**

*Based on current provisions of state law, and advice from the Washington State Office of the Attorney General, the City may continue its moratorium and ban medical marijuana and recreational marijuana business within its jurisdiction, and adopt the ordinance as proposed. Based on the general lack of guidance from the state for medical marijuana, and the existence of a fairly robust framework for recreational marijuana, the Hearing Examiner recommends the Council consider adopting provisions in specific zoning districts allowing for recreational marijuana production, processing, and retail stores, but continue prohibiting medical marijuana.*

**Notice to Applicants and Interested Parties**

Under section 2.30.090 of the McCleary Municipal Code, the decision of the examiner shall be final and conclusive, as to any further action or appeal as to those matters in which the examiner's decision is in fact passed on to the mayor and council as a recommendation, on the twenty-first day after the date of the decision. Since this is a recommendation and not a final decision, there is no appeal provided.

This report is the recommendation of the Hearing Examiner to the McCleary City Council. The council may approve, reject or modify this recommendation. Interested parties should contact the Clerk-Treasurer concerning action by the City Council.

Dated this 15<sup>th</sup> day of July, 2014

Neil L. Aaland  
Neil L. Aaland, AICP  
Elma Hearing Examiner



2940-B Limited Lane NW  
Olympia, WA 98502

1-800-422-5623 • (360) 539-7610  
Fax: (360) 491-6306

## Marijuana Facility Memorandum

March 7, 2014

Olympic Region Clean Air Agency (ORCAA) will not be permitting or registering marijuana facilities (producers or processors) at this time, unless a facility utilizes equipment such as a boiler, heater, emergency generator, or solvent extraction using solvents other than butane, ethanol, or ethyl acetate that would otherwise trigger a Notice of Construction (NOC) through ORCAA Regulation 6.1. ORCAA will, however, continue to enforce applicable state and local regulations for odors and dust, which apply generally to all sources of emissions including marijuana facilities.

Marijuana facilities are required to comply with general state and local air regulations prohibiting nuisance odors and dust, and requiring control of emissions consistent with best management practices for the industry. Per ORCAA Rule 8.5(c), no person shall cause or allow the emission or generation of any odor from any source, which unreasonably interferes with another person's use and enjoyment of their property. Complying with this prohibition will require air pollution control technology and measures sufficient to prevent nuisance odors and dust. At this time, ORCAA recognizes Denver's Best Management Practices as an applicable guideline for determining baseline controls for odors and dust, with the exception of masking agents, which are prohibited in Washington State (see Attachment).

ORCAA's decision to not require air permitting or registration of marijuana facilities is due to the limited environmental value these regulatory processes would add once a facility has been given a license to site. Sensible land use and siting criteria applied during facility licensing to prevent siting marijuana facilities in too close proximity to residences and sensitive receptors is the first and best means for preventing odor issues.

Therefore, ORCAA intends to engage in a regulatory capacity with marijuana facilities if and when they are identified as a nuisance due to their air emissions. ORCAA anticipates this engagement will be triggered when nuisance odor or dust complaints are received by the agency, or if requested by a local city or county official.

If you have any questions, please call ORCAA at (360) 539-7610.

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun, Director of Public Works  
Date: August 15th, 2014  
Re: Community Planning Assistance Team (CPAT)

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After listening to members of our local chamber of commerce and members of the community, I have been researching ways to improve the City. One item that I found was through Community Planning Assistance Teams (CPAT).

The Washington Chapter of the American Planning Association partners with the state Department of Commerce to provide communities the assistance of professional planners and other specialists in articulating visions, solving problems or resolving issues.

CPAT assistance is targeted to communities that lack planning resources and provides much, if not all, of this assistance pro-bono.

I have attached the form and you will see a more detailed explanation of what this program can bring and how the process works.

**Staff Recommendation:**

I would like to fill out the form asking for assistance in preparing and execution of an economic visioning plan, downtown revitalization, and creating financial sustainability.

**Action Requested:**

Please consider authorizing the City to apply for assistance with the Community Planning Assistance Teams.

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun, Director of Public Works  
Date: August 15<sup>th</sup>, 2014  
Re: Water body Naming

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During our update of our Shoreline Master Plan (SMP) we have noticed that the water body on the south end of city limits, that is included in SMP, is not named. Is there any interest in naming this water body? If there is, doing so during the SMP update process might be an appropriate time. I have attached a map of the water body and the process for naming a feature in Washington. The “Most Often Asked Questions” document is particularly informative.

**Action Requested:**

Please give me direction on if you would like to proceed with naming this water body.

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun, Director of Public Works  
Date: August 20<sup>th</sup>, 2014  
Re: TIB Funding Application

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The design of 3<sup>rd</sup> Street is well underway. Once the design is finished, we will be looking at many ways to fund the estimated \$2,400,000 construction cost of this project. For 2015, one of the funding options is the Small City Arterial Program through the Transportation Improvement Board (TIB).

The Small City Arterial Program was formally established by the Legislature in 1995. Projects preserve and improve TIB classified arterials consistent with local needs in cities with a population less than 5,000

We can apply up to \$750,000 in funding with a local 5% match, which would be \$39,474. Results will be known by late November.

**Staff Recommendation:**

The TIB programs are very competitive and I think we have as good as chance as any other small city at receiving funding for this project. I recommend we apply for the max funding amount of \$750,000 with a local 5% match, which would be \$39,474.

**Action Requested:**

Please authorize the application for TIB's Small City Arterial Program for the funding amount of \$750,000 with a local 5% match.

## PART IV

## ELECTRIC UTILITIES

NEW SECTION. Sec. 401. The legislature finds that it is necessary to employ multiple approaches to revitalize the economy of Washington state's rural areas. The legislature also finds that where possible, Washington state should develop programs which can complement other private, state, and federal programs. It is the intent of section 402 of this act to complement such rural economic development efforts by creating a public utility tax offset program to help establish locally based electric utility revolving fund programs to be used for economic development and job creation.

NEW SECTION. Sec. 402. A new section is added to chapter 82.16 RCW to read as follows:

(i) The following definitions apply to this section:

(a) "Qualifying project" means a project designed to achieve job creation or business retention, to add or upgrade nonelectrical infrastructure, to add or upgrade health and safety facilities, to accomplish energy and water use efficiency improvements, including renewable energy development, or to add or upgrade emergency services in any designated qualifying rural area.

(b) "Qualifying rural area" means:

(i) A rural county, which is a county with a population density of less than one hundred persons per square mile as determined by the office of financial management and published each year by the

(b) "Qualifying rural area" means:

(1) A rural county, which is a county with a population density of less than one hundred persons per square mile as determined by the office of financial management and published each year by the department for the period July 1st to June 30th; or

(2) Any geographic area in the state that receives electricity from a light and power business with twelve thousand or fewer customers and with fewer than twenty-six meters per mile of distribution line as determined and published by the department of revenue effective July 1st of each year. The department shall use current data provided by the electricity industry.

(c) "Electric utility rural economic development revolving fund" means a fund devoted exclusively to funding qualifying projects in qualifying rural areas.

(d) "Local board" is a board of directors with at least, but not limited to, three members representing local businesses and community groups who have been appointed by the sponsoring electric utility to oversee and direct the activities of the electric utility rural economic development revolving fund.

(2) A light and power business with fewer than twenty-six active meters per mile of distribution line in any geographic area in the state shall be allowed a credit against taxes due under this chapter in an amount equal to fifty percent of contributions made in any calendar year directly to an electric utility rural economic development revolving fund. The credit shall be taken in a form and manner as required by the department. The credit under this section shall not exceed twenty-five thousand dollars per calendar year per

per light and power business. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one calendar year may not be used to earn a credit in subsequent years.

(3) The right to earn tax credits under this section expires December 31, 2005.

(4) To qualify for the credit in subsection (2) of this section, the light and power business shall establish an electric utility rural economic development revolving fund which is governed by a local board whose members shall reside in the qualifying rural area served by the light and power business. The local board shall have authority to determine all criteria and conditions for the expenditure of funds from the electric utility rural economic development fund, and for the terms and conditions of repayment.

(5) Any funds repaid to the electric utility rural economic development fund by recipients shall be made available for additional qualifying projects.

(6) If at any time the electric utility rural economic development fund is dissolved, any moneys claimed as a tax credit under this section shall either be granted to a qualifying project or refunded to the state within two years of termination.

(7) The total amount of credits that may be used in any fiscal year shall not exceed three hundred fifty thousand dollars in any fiscal year. The department shall allow the use of earned credits on a first-come, first-served basis. Unused earned credits may be carried over to subsequent years.

[Back to Web Site](#)

**City of McCleary**  
**Home of the Bear Festival**

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## **2.76 Electric Utility Rural Economic Development Revolving Fund**

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- **2.76.010 Definitions.**
- **2.76.020 Fund--Creation, uses, disbursement and replenishment.**
- **2.76.030 Board--Size, qualifications, appointment and powers.**
- **2.76.040 Interpretation.**

### **2.76.010 Definitions.**

For purposes of this chapter, the following terms shall mean as follows; provided, that in the event the definitions of these terms as set forth in Section 402(1), Laws of 1999, are hereafter amended by the legislature, to the extent the term, as amended, provides for broader authority, or such adoption is mandatory, such amendment or successor shall be deemed to have been adopted by reference:

- A. "Qualifying project" means a project designed to achieve job creation or business retention, to add or upgrade nonelectrical infrastructure, to add or upgrade health and safety facilities, to accomplish energy and water use efficiency improvements, including renewable energy development, or to add or upgrade emergency services in any designated qualifying rural area.
- B. "Electric utility rural economic development revolving fund" means the fund created pursuant to Section 2.76.020 which is devoted exclusively to funding projects fitting within the definition set forth in subsection A of this section.
- C. "Local board" means the board of directors of the fund established pursuant to Section 2.76.020, appointed as provided for herein, and having the qualifications and authority set forth within this chapter or under Chapter 311, as now existing or hereafter amended or succeeded.

(Ord. 672 § 1, 1999)

### **2.76.020 Fund--Creation, uses, disbursement and replenishment.**

- A. There is created within the city's electric utility budgetary accounts an account to be identified as the "electric utility rural economic development revolving fund." All moneys generated, retained, or received pursuant to the exercise of the authority set forth in the Act, all repayments of moneys loaned from the fund, and all income earned on such moneys shall be deposited in the fund.
- B. The fund created by subsection A of this section shall be utilized to fund projects having as their purpose the achievement of one or more of the goals set forth in Section 2.76.010(A), as well as for all purposes or goals reasonably implied from or reasonably necessary to execute the types of projects set forth in said section or authorized by the Act. The funding shall be as authorized by and pursuant to the terms and conditions set by the board, as more fully set forth in Section 2.76.030.
- C. All expenditures authorized by the board from this fund shall be disbursed under the direction and control of the clerk-treasurer of the city or her or his designee. At no time may the total of the expenditures, whether already disbursed or authorized, exceed the moneys within the fund, as defined in subsections A and D of this section. The board shall specifically have no authority to borrow moneys, commit the credit of the city, nor guarantee loans, the authority being limited as set forth above.
- D. Any funds repaid into the fund shall be available for utilization in the funding of other qualifying projects or the costs related to the achievement of the goals of the Act, including the activities and operations of the board and its associated operations.

E. In the event that the fund is dissolved, any moneys claimed as a tax credit under Section 402 of the Act shall be granted to qualifying projects or, if not so granted within two years of termination, refunded to the state.

(Ord. 676, § 1, 1999; Ord. 672 § 2, 1999)

### **2.76.030 Board--Size, qualifications, appointment and powers.**

A. The board shall consist of three public members who shall, after the initial staggered terms, serve a term of three years, and two members who shall be elected officials of the city.

1. A public member shall be appointed by the mayor and confirmed by action of the council and shall not hold a full-time compensated position with the city.

a. As a condition of appointment to or continuation of service upon the board, a public member must live within the area served by the city's electric utility.

b. In making and confirming the appointments of the public members, the mayor and council shall insure that no less than three of the members serving at any time shall be representative of the interests of businesses and community groups within the utility's service area.

c. A public member shall be subject to removal during his or her term in the following manner. In the event that either the mayor or a majority of the council determines that it is necessary and appropriate to remove any public member, then the branch making such initial decision shall give written notice to the individual and to the other branch of such desire, stating the reasons therefor. The removal or termination shall not become effective until: (i) the member has an opportunity to respond to the reasons stated, such response to be given in a written form or orally, in the discretion of the member involved; and (ii) the decision, if commenced by action of the mayor is confirmed by a majority vote of the city council taken in the same manner as provided for confirmation of appointment or, if commenced by action of the city council, the mayor has concurred therein in writing.

2. The elected official element of the board shall consist of the mayor and one member of the city council, who shall be chosen by action of the council. The mayor shall serve as chair of the board. Service as a member on the board as an elected official shall be conditioned upon the individual at all times possessing the qualifications to serve in the elected position held at the time of appointment.

B. The board shall have all power and authority reasonably necessary to manage, oversee and direct the operations of the fund. By way of representation and not by way of limitation, these areas shall include the following:

1. The development and adoption of standards, rules and regulations relating to the operation of the fund, including but not limited to, criteria for receiving moneys from the fund, terms and conditions of disbursement, reporting, utilization, and repayment. This authority shall specifically include:

a. The right to carry forth audits of recipients for the sole purpose of reviewing the expenditure of the moneys disbursed from the fund to the recipient; and

b. The determination of the nature of and the period for retention of records by the recipient relating to the receipt and expenditure of moneys received from the fund.

2. The evaluation and, in its discretion, the approval or denial of applications for moneys from the fund and the establishment of conditions thereon, including terms related to repayment. This authority to disburse grants or loans shall be limited as set forth in Section 2.76.010.

C. The city administrator shall take such steps as may be reasonably necessary to provide such staff assistance to the board as may be necessary to carry forth its duties.

(Ord. 676 § 2, 1999; Ord. 672 § 3, 1999)

#### **2.76.040 Interpretation.**

A. The provisions of this chapter shall be interpreted so as to be consistent and in compliance with the provisions of the Act while preserving the broadest discretion to the board and the city in the utilization of the powers granted by the Act.

B. Section titles are for convenience only and shall not be deemed operative or restrictive in their nature.

C. The action taken in relation to creation of the fund shall be deemed ratification of the September 8, 1999, action taken by the council and mayor through the adoption of an oral resolution authorizing the establishment of the fund.

D. If any provision of this chapter or any rule, regulation, standard, or provision adopted thereunder or the application thereof to any person or circumstance is held to be invalid, the remainder of such chapter or rule, regulation, standard, or provision or the application thereof to other persons or circumstances shall not be affected.

(Ord. 672 § 4, 1999)

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# HB 1632 Q&A

In July 2013, Washington enacted a law requiring license plates on All Terrain Vehicles, HB 1632. Below are the answers to common questions regarding the law.



Accountability for ATV riders

## **How will HB 1632 reduce illegal and harmful ATV use?**

The new law provides accountability. Yesterday, someone could ride roughshod with anonymity. This bill requires all ATV's to display a visible license plate and sets a hefty (up to \$500) fine for violations. Citations can be issued based on evidence collected by a citizen (e.g., a photo of the illegal use with its ID plate).

## **How extensive is ATV abuse?**

By DNR estimates, unethical ATV riding has created 3-6,000 miles of illegal trail on Washington state lands alone, which is 3 to 6 times that of the legal mileage. ATV trespass costs ranchers and tree farmers millions of dollars annually in property damage.

## **Are these policies in place elsewhere?**

Yes. A number of other states have adopted visible ID requirements, which is considered the best single step to reduce ATV abuse.

## **How does the bill promote responsible ATV use?**

The bill immediately opens roads meeting certain criteria (e.g., under 35 mph) in the five counties with populations lower than 15,000. Larger counties may opt-in. Towns and cities may also opt-in. Such open roads can then be ridden on by street-legal, licensed ATV's driven by a person with a valid driver's license.

## **Do ATV interests support the bill?**

Some opposed it out of fear of ending wanton illegal riding. But many responsible ATV riders, clubs, and communities actively supported the bill.

## **Why did some ATV interests support the bills?**

The new policy will help clean up the sport and improve the reputation of ATV recreation, possibly leading eventually to expanded access and privileges. Also the bill provides immediate access for ATV riding on certain low speed rural roads in certain counties, which something that many riders and rural communities want.

## **Do all conservationist groups support the bill?**

No. Some groups feel ATVs don't belong on rural roads, a concern that WA State Patrol shares, or they fear it will lead to more access and abuse on public lands.

**How does Conservation Northwest feel about those concerns?**

Our focus is reducing illegal and damaging use. The bill is specifically designed to not change ATV access decisions that public land managers make, so trails/roads that are presently off limits should remain so. Conservation Northwest is optimistic that illegal use will be reduced both by the accountability created by the visible plates and high fines, and by the culture of self-policing that this effort is helping to foster among the ATV community. The bill is a huge step forward from the status quo of not only epidemic backcountry abuse, but numerous counties opening ATV access to roads (under and obscure 2005 statute) without license plates, speed limits, drivers licenses, or other considerations. Read Mitch's blog upon passage of HB 1632.

**More resources:**

- [Washington off-road policy principles \(PDF\)](#)
- [HB 1632 full language \(PDF\)](#)

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**ENGROSSED SUBSTITUTE HOUSE BILL 1632**

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Passed Legislature - 2013 2nd Special Session

State of Washington

63rd Legislature

2013 2nd Special Session

By House Transportation (originally sponsored by Representatives Shea, Blake, Kristiansen, Sells, Warnick, Upthegrove, Wilcox, Scott, Moscoso, Fagan, and Condotta)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to regulating the use of off-road vehicles in  
2 certain areas; amending RCW 46.09.310, 46.09.310, 46.09.360, 46.09.400,  
3 46.09.410, 46.09.420, 46.09.450, 46.09.460, 46.09.530, 46.17.350,  
4 46.30.020, 46.63.020, 79A.80.010, 46.63.030, 43.84.092, and 43.84.092;  
5 reenacting and amending RCW 46.09.470; adding new sections to chapter  
6 46.09 RCW; creating a new section; prescribing penalties; providing  
7 effective dates; providing a contingent effective date; providing an  
8 expiration date; providing a contingent expiration date; and declaring  
9 an emergency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 NEW SECTION. **Sec. 1.** (1) The legislature finds that off-road  
12 vehicle users have been overwhelmed with varied confusing rules,  
13 regulations, and ordinances from federal, state, county, and city land  
14 managers throughout the state to the extent standardization statewide  
15 is needed to maintain public safety and good order.

16 (2) It is the intent of the legislature to: (a) Increase  
17 opportunities for safe, legal, and environmentally acceptable motorized  
18 recreation; (b) decrease the amount of unlawful or environmentally  
19 harmful motorized recreation; (c) generate funds for use in

1 recreational purposes, including but not limited to riding an all-  
2 terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or  
3 dune buggy.

4 (14) "ORV sports park" means a facility designed to accommodate  
5 competitive ORV recreational uses including, but not limited to,  
6 motocross racing, four-wheel drive competitions, and flat track racing.  
7 Use of ORV sports parks can be competitive or noncompetitive in nature.

8 (15) "ORV trail" means a multiple-use corridor designated by the  
9 managing authority and maintained for recreational use by motorized  
10 vehicles.

11 (16) "Direct supervision" means that the supervising adult must be  
12 in a position, on another wheeled all-terrain vehicle or specialty off-  
13 highway vehicle or motorbike or, if on the ground, within a reasonable  
14 distance of the unlicensed operator, to provide close support,  
15 assistance, or direction to the unlicensed operator.

16 (17) "Emergency management" means the carrying out of emergency  
17 functions related to responding and recovering from emergencies and  
18 disasters, and to aid victims suffering from injury or damage,  
19 resulting from disasters caused by all hazards, whether natural,  
20 technological, or human caused, and to provide support for search and  
21 rescue operations for persons and property in distress.

22 (18) "Primitive road" means a linear route managed for use by four-  
23 wheel drive or high-clearance vehicles that is generally not maintained  
24 or paved, a road designated by a county as primitive under RCW  
25 36.75.300, or a road designated by a city or town as primitive under a  
26 local ordinance.

27 (19) "Wheeled all-terrain vehicle" means (a) any motorized  
28 nonhighway vehicle with handlebars that is fifty inches or less in  
29 width, has a seat height of at least twenty inches, weighs less than  
30 one thousand five hundred pounds, and has four tires having a diameter  
31 of thirty inches or less, or (b) a utility-type vehicle designed for  
32 and capable of travel over designated roads that travels on four or  
33 more low-pressure tires of twenty psi or less, has a maximum width less  
34 than seventy-four inches, has a maximum weight less than two thousand  
35 pounds, has a wheelbase of one hundred ten inches or less, and  
36 satisfies at least one of the following: (i) Has a minimum width of  
37 fifty inches; (ii) has a minimum weight of at least nine hundred  
38 pounds; or (iii) has a wheelbase of over sixty-one inches.

1 (b) Snowmobiles or any military vehicles; or

2 (c) Any vehicle eligible for a motor vehicle fuel tax exemption or  
3 rebate under chapter 82.38 RCW while an exemption or rebate is claimed.  
4 This exemption includes but is not limited to farm, construction, and  
5 logging vehicles.

6 (9) "Nonmotorized recreational facilities" means recreational  
7 trails and facilities that are adjacent to, or accessed by, a  
8 nonhighway road and intended primarily for nonmotorized recreational  
9 users.

10 (10) "Nonmotorized recreational user" means a person whose purpose  
11 for consuming fuel on a nonhighway road or off-road is primarily for  
12 nonmotorized recreational purposes including, but not limited to,  
13 walking, hiking, backpacking, climbing, cross-country skiing,  
14 snowshoeing, mountain biking, horseback riding, and pack animal  
15 activities.

16 (11) "Organized competitive event" means any competition,  
17 advertised in advance through written notice to organized clubs or  
18 published in local newspapers, sponsored by recognized clubs, and  
19 conducted at a predetermined time and place.

20 (12) "ORV recreation facilities" include, but are not limited to,  
21 ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use  
22 areas, designated for ORV use by the managing authority (~~that are~~  
23 ~~intended primarily for ORV recreational users~~).

24 (13) "ORV recreational user" means a person whose purpose for  
25 consuming fuel on nonhighway roads or off-road is primarily for ORV  
26 recreational purposes, including but not limited to riding an all-  
27 terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or  
28 dune buggy.

29 (14) "ORV sports park" means a facility designed to accommodate  
30 competitive ORV recreational uses including, but not limited to,  
31 motocross racing, four-wheel drive competitions, and flat track racing.  
32 Use of ORV sports parks can be competitive or noncompetitive in nature.

33 (15) "ORV trail" means a multiple-use corridor designated by the  
34 managing authority and maintained for recreational use by motorized  
35 vehicles.

36 (16) "Direct supervision" means that the supervising adult must be  
37 in a position, on another wheeled all-terrain vehicle or specialty off-

1 highway vehicle or motorbike or, if on the ground, within a reasonable  
2 distance of the unlicensed operator, to provide close support,  
3 assistance, or direction to the unlicensed operator.

4 (17) "Emergency management" means the carrying out of emergency  
5 functions related to responding and recovering from emergencies and  
6 disasters, and to aid victims suffering from injury or damage,  
7 resulting from disasters caused by all hazards, whether natural,  
8 technological, or human caused, and to provide support for search and  
9 rescue operations for persons and property in distress.

10 (18) "Primitive road" means a linear route managed for use by four-  
11 wheel drive or high-clearance vehicles that is generally not maintained  
12 or paved, a road designated by a county as primitive under RCW  
13 36.75.300, or a road designated by a city or town as primitive under a  
14 local ordinance.

15 (19) "Wheeled all-terrain vehicle" means (a) any motorized  
16 nonhighway vehicle with handlebars that is fifty inches or less in  
17 width, has a seat height of at least twenty inches, weighs less than  
18 one thousand five hundred pounds, and has four tires having a diameter  
19 of thirty inches or less, or (b) a utility-type vehicle designed for  
20 and capable of travel over designated roads that travels on four or  
21 more low-pressure tires of twenty psi or less, has a maximum width less  
22 than seventy-four inches, has a maximum weight less than two thousand  
23 pounds, has a wheelbase of one hundred ten inches or less, and  
24 satisfies at least one of the following: (i) Has a minimum width of  
25 fifty inches; (ii) has a minimum weight of at least nine hundred  
26 pounds; or (iii) has a wheelbase of over sixty-one inches.

27 NEW SECTION. Sec. 4. A new section is added to chapter 46.09 RCW  
28 under the subchapter heading "registrations and use permits" to read as  
29 follows:

30 (1) Any wheeled all-terrain vehicle operated within this state must  
31 display a metal tag to be affixed to the rear of the wheeled all-  
32 terrain vehicle. The initial metal tag must be issued with an original  
33 off-road vehicle registration and upon payment of the initial vehicle  
34 license fee under RCW 46.17.350(1)(s). The metal tag must be replaced  
35 every seven years at a cost of two dollars. Revenue from replacement  
36 metal tags must be deposited into the nonhighway and off-road vehicle

1 activities program account. The department must design the metal tag,  
2 which must:

3 (a) Be the same size as a motorcycle license plate;

4 (b) Have the words "RESTRICTED VEHICLE" listed at the top of the  
5 tag;

6 (c) Contain designated identification through a combination of  
7 letters and numbers;

8 (d) Leave space at the bottom left corner of the tag for an off-  
9 road tab issued under subsection (2) of this section; and

10 (e) Leave space at the bottom right corner of the tag for an on-  
11 road tab, when required, issued under subsection (3) of this section.

12 (2) A person who operates a wheeled all-terrain vehicle must have  
13 a current and proper off-road vehicle registration, with the  
14 appropriate off-road tab, and pay the annual vehicle license fee as  
15 provided in RCW 46.17.350(1)(s), which must be deposited into the  
16 nonhighway and off-road vehicle activities program account. The off-  
17 road tab must be issued annually by the department upon payment of  
18 initial and renewal vehicle license fees under RCW 46.17.350(1)(s).

19 (3) A person who operates a wheeled all-terrain vehicle upon a  
20 public roadway must have a current and proper on-road vehicle  
21 registration, with the appropriate on-road tab, which must be of a  
22 bright color that can be seen from a reasonable distance, and pay the  
23 annual vehicle license fee as provided in RCW 46.17.350(1)(r). The on-  
24 road tab must be issued annually by the department upon payment of  
25 initial and renewal vehicle license fees under RCW 46.17.350(1)(r).

26 (4) A wheeled all-terrain vehicle may not be registered for  
27 commercial use.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.09 RCW  
29 under the subchapter heading "registrations and use permits" to read as  
30 follows:

31 (1) A person may not operate a wheeled all-terrain vehicle upon a  
32 public roadway of this state, not including nonhighway roads and  
33 trails, without (a) first obtaining a valid driver's license issued to  
34 Washington residents in compliance with chapter 46.20 RCW or (b)  
35 possessing a valid driver's license issued by the state of the person's  
36 residence if the person is a nonresident.

1 (2) A person who operates a wheeled all-terrain vehicle under this  
2 section is granted all rights and is subject to all duties applicable  
3 to the operator of a motorcycle under RCW 46.37.530 and chapter 46.61  
4 RCW, unless otherwise stated in this act, except that wheeled all-  
5 terrain vehicles may not be operated side-by-side in a single lane of  
6 traffic.

7 (3) Wheeled all-terrain vehicles are subject to chapter 46.55 RCW.

8 (4) Any person who violates this section commits a traffic  
9 infraction.

10 (5) The department may develop and implement an online training  
11 course for persons that register wheeled all-terrain vehicles and  
12 utility-type vehicles for use on a public roadway of this state. The  
13 department is granted rule-making authority for the training course.  
14 Any future costs associated with the training course must be  
15 appropriated from the highway safety account and any fees collected  
16 must be distributed to the highway safety account.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.09 RCW  
18 under the subchapter heading "uses and violations" to read as follows:

19 (1) A person may operate a wheeled all-terrain vehicle upon any  
20 public roadway of this state, not including nonhighway roads and  
21 trails, having a speed limit of thirty-five miles per hour or less  
22 subject to the following restrictions and requirements:

23 (a) A person may not operate a wheeled all-terrain vehicle upon  
24 state highways that are listed in chapter 47.17 RCW; however, a person  
25 may operate a wheeled all-terrain vehicle upon a segment of a state  
26 highway listed in chapter 47.17 RCW if the segment is within the limits  
27 of a city or town and the speed limit on the segment is thirty-five  
28 miles per hour or less;

29 (b) A person operating a wheeled all-terrain vehicle may not cross  
30 a public roadway, not including nonhighway roads and trails, with a  
31 speed limit in excess of thirty-five miles per hour, unless the  
32 crossing begins and ends on a public roadway, not including nonhighway  
33 roads and trails, or an ORV trail, with a speed limit of thirty-five  
34 miles per hour or less and occurs at an intersection of approximately  
35 ninety degrees, except that the operator of a wheeled all-terrain  
36 vehicle may not cross at an uncontrolled intersection of a public  
37 highway listed under chapter 47.17 RCW;

1 (c)(i) A person may not operate a wheeled all-terrain vehicle on a  
2 public roadway within the boundaries of a county, not including  
3 nonhighway roads and trails, with a population of fifteen thousand or  
4 more unless the county by ordinance has approved the operation of  
5 wheeled all-terrain vehicles on county roadways, not including  
6 nonhighway roads and trails.

7 (ii) The legislative body of a county with a population of fewer  
8 than fifteen thousand may, by ordinance, designate roadways or highways  
9 within its boundaries to be unsuitable for use by wheeled all-terrain  
10 vehicles.

11 (iii) Any public roadways, not including nonhighway roads and  
12 trails, authorized by a legislative body of a county under (c)(i) of  
13 this subsection or designated as unsuitable under (c)(ii) of this  
14 subsection must be listed publicly and made accessible from the main  
15 page of the county web site.

16 (iv) This subsection (1)(c) does not affect any roadway that was  
17 designated as open or closed as of January 1, 2013;

18 (d)(i) A person may not operate a wheeled all-terrain vehicle on a  
19 public roadway within the boundaries of a city or town, not including  
20 nonhighway roads and trails, unless the city or town by ordinance has  
21 approved the operation of wheeled all-terrain vehicles on city or town  
22 roadways, not including nonhighway roads and trails.

23 (ii) Any public roadways, not including nonhighway roads and  
24 trails, authorized by a legislative body of a city or town under (d)(i)  
25 of this subsection must be listed publicly and made accessible from the  
26 main page of the city or town web site.

27 (iii) This subsection (1)(d) does not affect any roadway that was  
28 designated as open or closed as of January 1, 2013.

29 (e) Any person who violates this subsection commits a traffic  
30 infraction.

31 (2) Local authorities may not establish requirements for the  
32 registration of wheeled all-terrain vehicles.

33 (3) A person may operate a wheeled all-terrain vehicle upon any  
34 public roadway, trail, nonhighway road, or highway within the state  
35 while being used under the authority or direction of an appropriate  
36 agency that engages in emergency management, as defined in RCW  
37 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law

1 enforcement agency, as defined in RCW 16.52.011, within the scope of  
2 the agency's official duties.

3 (4) A wheeled all-terrain vehicle is an off-road vehicle for the  
4 purposes of chapter 4.24 RCW.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.09 RCW  
6 under the subchapter heading "uses and violations" to read as follows:

7 (1) A person may operate a wheeled all-terrain vehicle upon any  
8 public roadway of this state, not including nonhighway roads and  
9 trails, subject to the following equipment and declaration  
10 requirements:

11 (a) A person who operates a wheeled all-terrain vehicle must comply  
12 with the following equipment requirements:

13 (i) Headlights meeting the requirements of RCW 46.37.030 and  
14 46.37.040 and used at all times when the vehicle is in motion upon a  
15 highway;

16 (ii) One tail lamp meeting the requirements of RCW 46.37.525 and  
17 used at all times when the vehicle is in motion upon a highway;  
18 however, a utility-type vehicle, as described under RCW 46.09.310, must  
19 have two tail lamps meeting the requirements of RCW 46.37.070(1) and to  
20 be used at all times when the vehicle is in motion upon a highway;

21 (iii) A stop lamp meeting the requirements of RCW 46.37.200;

22 (iv) Reflectors meeting the requirements of RCW 46.37.060;

23 (v) During hours of darkness, as defined in RCW 46.04.200, turn  
24 signals meeting the requirements of RCW 46.37.200. Outside of hours of  
25 darkness, the operator must comply with RCW 46.37.200 or 46.61.310;

26 (vi) A mirror attached to either the right or left handlebar, which  
27 must be located to give the operator a complete view of the highway for  
28 a distance of at least two hundred feet to the rear of the vehicle;  
29 however, a utility-type vehicle, as described under RCW 46.09.310(19),  
30 must have two mirrors meeting the requirements of RCW 46.37.400;

31 (vii) A windshield meeting the requirements of RCW 46.37.430,  
32 unless the operator wears glasses, goggles, or a face shield while  
33 operating the vehicle, of a type conforming to rules adopted by the  
34 Washington state patrol;

35 (viii) A horn or warning device meeting the requirements of RCW  
36 46.37.380;

37 (ix) Brakes in working order;

1 (x) A spark arrester and muffling device meeting the requirements  
2 of RCW 46.09.470; and

3 (xi) For utility-type vehicles, as described under RCW  
4 46.09.310(19), seatbelts meeting the requirements of RCW 46.37.510.

5 (b) A person who operates a wheeled all-terrain vehicle upon a  
6 public roadway must provide a declaration that includes the following:

7 (i) Documentation of a safety inspection to be completed by a  
8 licensed wheeled all-terrain vehicle dealer or repair shop in the state  
9 of Washington that must outline the vehicle information and certify  
10 under oath that all wheeled all-terrain vehicle equipment as required  
11 under this section meets the requirements outlined in state and federal  
12 law. A person who makes a false statement regarding the inspection of  
13 equipment required under this section is guilty of false swearing, a  
14 gross misdemeanor, under RCW 9A.72.040;

15 (ii) Documentation that the licensed wheeled all-terrain vehicle  
16 dealer or repair shop did not charge more than fifty dollars per safety  
17 inspection and that the entire safety inspection fee is paid directly  
18 and only to the licensed wheeled all-terrain vehicle dealer or repair  
19 shop;

20 (iii) A statement that the licensed wheeled all-terrain vehicle  
21 dealer or repair shop is entitled to the full amount charged for the  
22 safety inspection;

23 (iv) A vehicle identification number verification that must be  
24 completed by a licensed wheeled all-terrain vehicle dealer or repair  
25 shop in the state of Washington; and

26 (v) A release signed by the owner of the wheeled all-terrain  
27 vehicle and verified by the department, county auditor or other agent,  
28 or subagent appointed by the director that releases the state from any  
29 liability and outlines that the owner understands that the original  
30 wheeled all-terrain vehicle was not manufactured for on-road use and  
31 that it has been modified for use on public roadways.

32 (2) This section does not apply to emergency services vehicles,  
33 vehicles used for emergency management purposes, or vehicles used in  
34 the production of agricultural and timber products on and across lands  
35 owned, leased, or managed by the owner or operator of the wheeled all-  
36 terrain vehicle or the operator's employer.

1        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 46.09 RCW  
2 under the subchapter heading "general provisions" to read as follows:

3        The department must track wheeled all-terrain vehicles in a  
4 separate registration category for reporting purposes.

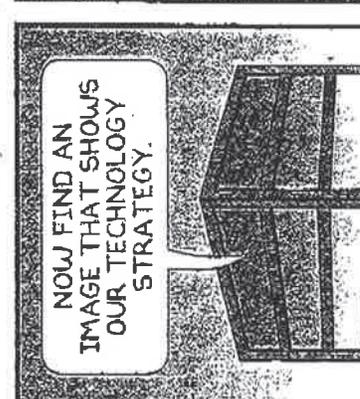
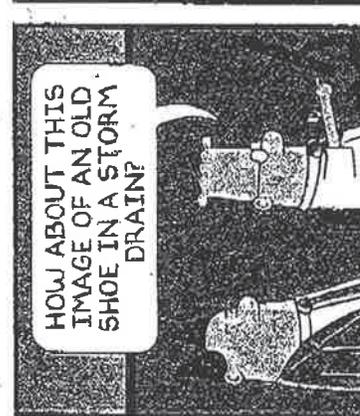
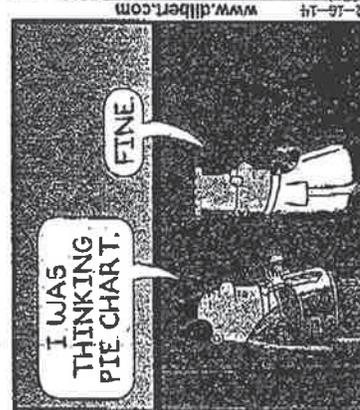
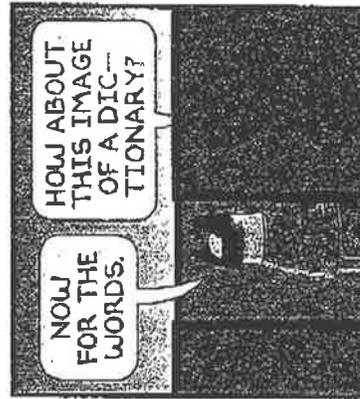
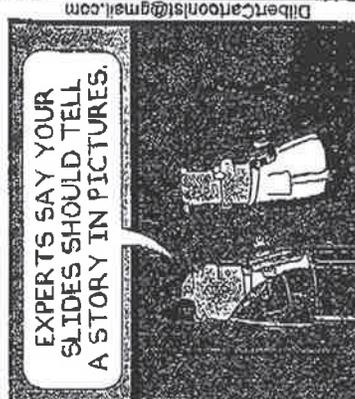
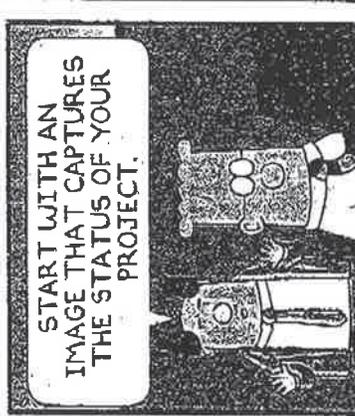
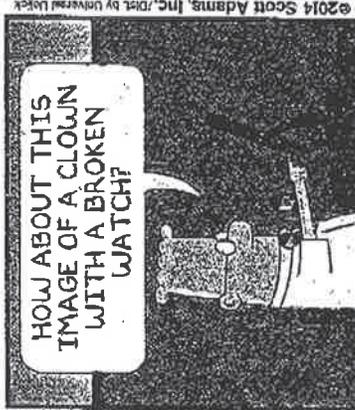
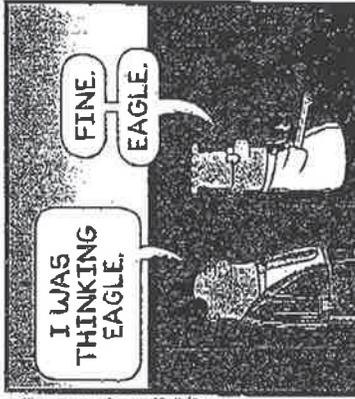
5        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 46.09 RCW  
6 under the subchapter heading "uses and violations" to read as follows:

7        (1) A person who operates a wheeled all-terrain vehicle consistent  
8 with RCW 46.09.470(1) (g), (h), or (i) or inconsistent with the  
9 emergency exemption under RCW 46.09.420 is a traffic infraction.

10        (2) Any law enforcement officer may issue a notice of traffic  
11 infraction for a violation of subsection (1) of this section whether or  
12 not the infraction was committed in the officer's presence, as long as  
13 there is reasonable evidence presented that the operator of the wheeled  
14 all-terrain vehicle committed a violation of subsection (1) of this  
15 section. At a minimum, the evidence must include information relating  
16 to the time and location at which the violation occurred, and the  
17 wheeled all-terrain vehicle metal tag number or a description of the  
18 vehicle involved in the violation. If, after an investigation of a  
19 reported violation of subsection (1) of this section, the law  
20 enforcement officer is able to identify the operator and has probable  
21 cause to believe a violation of subsection (1) of this section has  
22 occurred, the law enforcement officer shall prepare a notice of traffic  
23 infraction and have it served upon the operator of the wheeled all-  
24 terrain vehicle.

25        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 46.09 RCW  
26 under the subchapter heading "revenue" to read as follows:

27        (1) The multiuse roadway safety account is created in the motor  
28 vehicle fund. All receipts from vehicle license fees under RCW  
29 46.17.350(1)(r) must be deposited into the account. Moneys in the  
30 account may be spent only after appropriation. Expenditures from the  
31 account may be used only for grants administered by the department of  
32 transportation to: (a) Counties to perform safety engineering analysis  
33 of mixed vehicle use on any road within a county; (b) local governments  
34 to provide funding to erect signs providing notice to the motoring  
35 public that (i) wheeled all-terrain vehicles are present or (ii)  
36 wheeled all-terrain vehicles may be crossing; (c) the state patrol or



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## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO ZONING, PROHIBITING CERTAIN USES, ADDING A NEW SECTION TO CHAPTER 17.20 MMC, AMENDING SECTION 17.16.030, AS LAST AMENDED BY SECTION 3, ORDINANCE 737, PROVIDING FOR ENFORCEMENT, REPEALING ANY ORDINANCE IN CONFLICT HEREWITH, PROVIDING SEVERABILITY & AN EFFECTIVE DATE.

## R E C I T A L S:

1. With the adoption of Initiative 502 certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB). Additionally, the matter of activities authorized under the provisions of RCW 69.51A, known as the Medical Cannabis Act, remain basically unregulated.

2. So as to have time to adequately review the issues related to such activities and to provide time for the Legislature to act upon recommendations which had been requested from the LCB, the City has had in place a moratoriums on these activities.

3. The legislative session has ended and the Legislature has taken no steps to clarify the matter of the licencing of activities under RCW 69.51A. The Mayor and Council have observed how other municipal entities, counties and cities, have dealt with the issues. Additionally they have been made aware of an opinion issued by the Attorney General of the

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reserved right of cities to regulate, including banning, the activities and, as to activities under RCW 69.51A, an appellate decision confirming that authority.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance. They do, however, choose to implement a more limited zoning approach than he has recommended.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited public safety, to implement a prohibition of certain activities within the corporate limits and governing the siting and implementation of certain other uses, all as set forth in Section II.

SECTION II: There shall be added to Chapter 17.20 of the Municipal Code a new section to read as follows:

A. General: No use that is illegal under local or state law shall be allowed in any zone within the city.

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**B. Specific Application—Medical Marijuana Dispensaries**

**and Collective Gardens:** Dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, are not allowed in any zone within the city.

For purposes of this section,

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers, exchanges or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

**C. Retailing of Marijuana Prohibited:** The retail sale of and retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended, are each prohibited and not allowed in any zone within the city.

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**D. Production and Processing of Marijuana:** The production and processing of marijuana by a person or entity possessing a valid license to do so as a marijuana producer or marijuana processor which has been issued by the Washington State Liquor Control Board pursuant to its authority granted by Initiative 502 and applicable provisions of RCW 69.50 and WAC 314-55, as now existing or hereafter amended or succeeded shall be allowed as a permitted use in the Industrial (I) zone so long as such activities are in compliance with the terms and conditions under which the license was issued. Section 17.20.030 shall be amended to include these as permitted uses.

In relation to the utilizations authorized by this section, the following specific provisions shall apply:

The facility shall be equipped with such air handling and filtering equipment so as to prevent the odor associated with the growth and processing of marijuana from escaping the interior of the facility.

For purposes of this section, the following definitions apply: PROVIDED THAT, in the event that either RCW 69.50 or WAC 314.55 provide a different definition, the definition in the WAC or RCW 69.50 shall govern.

1. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

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2. "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.

**D. Enforcement:** Any violation of this section is declared to be a public nuisance per se, and shall be abated by the police department, code enforcement officer, or city attorney under the applicable provisions of this code or state law, including, but not limited to, the provisions of Chapter 17.40.140 MMC.

**SECTION III:** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**SECTION IV:** This Ordinance shall take effect upon the fifth day following date of publication. As of that date, any moratorium imposed by prior ordinances on these activities covered by this ordinance shall be deemed repealed.

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SECTION V: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014, by the City Council of the City of McCleary, and signed in approval therewith this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF McCLEARY:

\_\_\_\_\_  
D. GARY DENT, Mayor

ATTEST:

\_\_\_\_\_  
WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON    )  
  : ss.  
GRAYS HARBOR COUNTY    )

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to

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have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number \_\_\_\_\_ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number \_\_\_\_\_, as it was published, is on file in the appropriate records of the City of McCleary.

\_\_\_\_\_  
WENDY COLLINS

SIGNED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by WENDY COLLINS.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at:  
My appointment expires:

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**08/20/2014**  
DG/1e

**CITY OF McCLEARY**  
**100 SOUTH 3RD STREET**  
**McCLEARY, WASHINGTON 98557**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE RELATING TO ZONING, PROHIBITING CERTAIN USES, ADDING A NEW SECTION TO CHAPTER 17.20 MMC, PROVIDING FOR ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**R E C I T A L S:**

1. With the adoption of Initiative 502, certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB). Additionally, the matter of activities authorized under the provisions of RCW 69.51A, known as the Medical Cannabis Act, remain basically unregulated.

2. So as to have time to adequately review the issues related to such activities and to provide time for the Legislature to act upon recommendations which had been requested from the LCB, the City has had in place a moratoriums on these activities.

3. The legislative session has ended and the Legislature has taken no steps to clarify the matter of the licencing of activities under RCW 69.51A. Further, the Mayor and Council have observed how other municipal entities, counties and cities, have dealt with the issues. Additionally they have been made aware of an opinion issued by the Attorney General of the reserved right of cities to regulate, including banning, the

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activities and, as to activities under RCW 69.51A, an appellate decision confirming that authority.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance. They do, however, choose to implement a zoning approach not authorizing the uses involved rather than the approach he has recommended.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited public safety, to implement a prohibition of the allowance within the corporate limits of the siting and implementation of the uses set forth in Section II.

SECTION II: There shall be added to Chapter 17.20 a new section to read as follows:

**A. General:** No use that is illegal under local, state, or federal law shall be allowed in any zone within the city.

**B. Specific Application—Medical Marijuana Dispensaries and Collective Gardens:** Until such time as this code is amended to provide specific provisions and land use controls allowing and

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CITY OF McCLEARY  
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regulating dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, such uses are not allowed in any zone within the city.

For purposes of this section,

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers, exchanges, or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

**C. Production, Processing, and Retailing of Marijuana**

**Prohibited:** Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale, and retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended,

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**CITY OF McCLEARY  
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such uses are each prohibited and not allowed in any zone within the city.

**D. Enforcement:** Any violation of this section is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Section 17.40.140 MMC.

**SECTION III:** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**SECTION IV:** This Ordinance shall take effect upon the fifth day following date of publication. As of that date, any moratorium imposed by prior ordinances on the activities covered by this ordinance shall be deemed repealed.

**SECTION V: Corrections by the Clerk-treasurer or Code Reviser.** Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make

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\_\_\_\_\_ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number \_\_\_\_\_, as it was published, is on file in the appropriate records of the City of McCleary.

\_\_\_\_\_  
WENDY COLLINS

SIGNED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by WENDY COLLINS.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at:  
My appointment expires:

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**08/20/2014**  
DG/le

**CITY OF McCLEARY**  
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