



McCleary City Council Agenda

08/14/19- 6:30PM

Flag Salute

Roll Call: ___ Pos. 1-Richey, ___ Pos. 2-Huff , ___ Pos. 3- Heller, ___ Pos. 4- Blankenship, ___ Pos. 5- Iversen

Public Hearing			
Mayor Comments			
Public Comment			
Minutes		Tab	A 7/10/2019
Approval of Vouchers			
Staff Reports		Tab	B Chris Coker
		Tab	C Todd Baun
		Tab	D Staff
Old Business		Tab	E CAO- Pre-existing usage language
		Tab	F Panhandling/ Homeless Encampments discussion
New Business		Tab	G 3rd Street Pay item
		Tab	H Janitorial Services
		Tab	I Window replacements
		Tab	J 45' Poles purchase
		Tab	K Chehalis Basin Partnership Representation
		Tab	L Methodist Church
		Tab	M AWC Dental Plan
Ordinances			
Resolutions			
Contracts			
Mayor/Council Comments			
Public Comments			
Adjourn/Recess Meeting			

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CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, July 10, 2019

ROLL CALL AND FLAG SALUTE Councilmembers Richey, Huff, Heller, Blankenship and Iversen were in attendance.

ABSENT None.

STAFF PRESENT Present at the meeting were Director of Public Works Todd Baun, Clerk-Treasurer Wendy Collins, Chief Steve Blumer and Attorney Chris Coker.

EXECUTIVE SESSION Mayor Orffer called for a fifteen-minute Executive Session at 6:32pm per RCW 42.30.110(1)(b) to discuss property acquisition. The Executive Session ended at 6:47 pm. No action was taken.

MAYOR COMMENTS Mayor Orffer thanked the City crew and Barcott Construction for their work on the 3rd Street Project. The street looks really nice.

The Wastewater Treatment Plant received an award for the fifth time in a row for outstanding quality. Mayor Orffer congratulated them and said thank you to Kevin Trewhella, WWTP Manager, and Jon Ehresmann, WWTP Maintenance Operator, for their hard work.

Mayor Orffer announced the Bear Festival is starting this weekend and hopes everyone is able to attend. It should be an enjoyable time for all.

Mayor Orffer said the swing set is in the works, it has not yet been ordered yet, but is getting close. She said we can assure all of our community children that we are working on it and it should be ordered soon.

PUBLIC COMMENTS Dionne, a resident of Rainbow Park Apartments, asked when the requested signage will be installed at the apartment complex regarding speed limit, hearing impaired persons and children at play. She added there are no white lines painted on the road either. She said there are so many people that use that road that are using wheel chairs, walkers, bicycles and there are lots of children around. It is really dangerous back there on that road when people are speeding through. Todd responded he has two pedestrian signs that are put on poles and it's just a matter of drilling a hole and putting them up. Mayor Orffer asked if he considered striping the road and Todd said it depends on the width of the road. He will have to measure it to see if it can be striped. There is a standard width for roads before they can be striped. He does have a speed limit sign, it's just not put up.

Helen Hamilton thanked the Council for working on the critical areas ordinance (CAO) and asked Todd to check the Grays Harbor County's CAO. He said the County is in the process of updating theirs and he agreed to check on it.

PUBLIC HEARING None.

MINUTES APPROVED **It was moved by Councilmember Richey, seconded by Councilmember Iversen to adopt the minutes from the June 12, 2019 meeting. Motion Carried 5-0.**

VOUCHERS Accounts Payable checks approved were 46187 - 46253, including EFT's, in the amount of \$740,871.69 and 46278 - 46313, including EFT's in the amount of \$31,501.95..

It was moved by Councilmember Huff, seconded by Councilmember Heller to approve the vouchers. Motion Carried 5-0.

CITY ATTORNEY REPORT Chris Coker reported the abatement action we are taking went out to be filed at Grays Harbor County today and he is working on getting the person served. He will keep the Council informed of the progress.

DIRECTOR OF PUBLIC WORKS REPORT Todd announced 3rd Street is now open for traffic. Street lights, cross walks and flashing school zone signs will be installed next week. Hemlock Street will have a push button for lights to flash for people crossing the street.

POLICE CHIEF REPORT	The Police have a speed trailer that shows drivers how fast they are going. He said both Todd and the officers have a key to it. It's intended to help drivers slow down and be aware of their speed.
CRITICAL AREAS ORDINANCE - PRE EXISTING USAGE	Todd provided samples of other cities who recently updated their critical areas ordinances and what they use for pre existing uses. The majority of them use it as a non conforming use. Councilmember Iversen asked Todd if he thinks one is better than the other and he said he prefers the Lynden sample because it refers back to the non conforming use and that makes it pretty simple. Councilmember Heller thought the Thurston sample was too long. Todd will get the Grays Harbor County's CAO for the next meeting for their review. Councilmember Blankenship stated at the last meeting the Council only discussed the issue of the footprint, other than that, he thought the draft was ready. He doesn't understand why we now have new samples to review. Todd responded he is trying to provide more samples with different language to help them decide on what language to use regarding critical areas in our ordinance
FIRST RESPONDER APPRECIATION	Councilmember Huff reported the McCleary Chamber of Commerce used to nominate "first responders" for annual awards. He is asking the Council if this is something they are interested in taking over since the Chamber no longer does it. In the past, there was one award for a fireman and one for a police officer. Councilmember Iversen thinks they should consider it. Councilmember Huff is leaning more toward having the community vote and the Council could present it. Mayor Orffer asked Councilmember Huff to bring a proposal for how the process would work for a future meeting.
3RD STREET PAY ITEM	Barcott Construction submitted a payment request for \$471,729.79 for work performed on the 3rd Street Project. Todd said this is the last big payment we will be making to them. It was moved by Councilmember Iversen, seconded by Councilmember Blankenship to authorize the payment to Barcott Construction in the amount of \$471,729.79. Motion Carried 5-0.
LIQUOR LICENSE	Mayor Orffer signed a liquor license for Al Carbon Restaurant. It is for both beer and hard alcohol.
PANHANDLING/HOMELESS ENCAMPMENTS DISCUSSION	Councilmember Blankenship is concerned about the issue of pan handlers and homeless encampments after one recently tried setting up camp in Gordon's parking lot. He said we need to get something in place before people migrate here to set up a homeless camp. Chris Coker said this would be passing something in anticipation of something. He added, this type of ordinance would deal with the permitting process if a church or other organization wanted to set up a homeless camp. It would require them to have to purchase a permit with rules that must be followed, such as they could only have a limited amount of tents, the camp must be clean, they must maintain sanitation and there can be no drugs. The City would have to set a price for the permits. Councilmember Iversen thinks it's a good idea to get something started and we can improve on it as needed. Councilmember Richey likes this approach and believes it's reasonable. Chris stated the provided sample documents are from Municipal Research and Services Center, (MRSC), which means they has been reviewed by attorneys and are an acceptable document. Mayor Orffer asked him to check Sections A and B for legality. Chris will review the ordinance materials and will add updates for the August meeting.
PUBLIC COMMENT	<p>Mayor Orffer said she was privileged to attend a meeting hosted by Leadership Grays Harbor where they held their graduation ceremony for the class of 2019. Wendy, our Clerk-Treasurer, participated in the program this year and graduated. She stated we are very excited about this and we want to congratulate her for doing this. Very good job. She said it was fun to be there and we will hopefully have more information about this at a future council meeting because they will be coming around to do a formal award presentation for completing the program.</p> <p>Councilmember Blankenship asked what is going on with our nuisance updates, such as the abandoned house on Hemlock. Todd said he will have to ask Josh because he went and looked at it and he's not sure where he's at on the process and is not back from vacation yet. Mayor Orffer said it is still owned by the Bank of America, according to the sign on the door.</p> <p>Jeffrey Prowse (Big) said we should also look into public camping, being that we have public lands nearby and you have to have a permit, among other things. We might want to dovetail that into our ordinance. That way you are able to have some more teeth into getting people out of town if they do happen to set up camp. Councilmember Blankenship thinks that was addressed in the panhandling section. Mayor Orffer added they will take a look at it to make sure it is covered.</p>

Councilmember Blankenship asked Todd if the signs were ever ordered for the street permitting ordinance and Todd said he is waiting for a quote from the Department of Corrections. Mayor Orffer confirmed there will be twelve signs at six locations. She added that Wendy is working on implementing them into the financials so we can sell the permits and Chief Blumer is working on the enforcement side of it and he also knows where to order the permit stickers from. She said the engineer came and showed us what signage we need and where we need them so we are now waiting for the quote.

MEETING ADJOURNED

Hearing no objections, Mayor Orffer adjourned the meeting at 7:22 pm. The next meeting will be Wednesday, August 14, 2019 at 6:30 pm. Motion Carried 5-0.

Approved by Mayor Brenda Orffer and Clerk-Treasurer Wendy Collins.

Younglove & Coker

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Memorandum

TO: Mayor and City Council, City of McCleary
FROM: Christopher John Coker, City Attorney
DATE: August 8, 2019
RE: Significant Legal Activities as of August 8, 2019.

Past Due Utility Payments:

As of the writing of this memo it is my understanding all past due that we addressed a few months ago have been paid and brought current.

Superior Court Complaint for Warrant of Abatement of Nuisance:

The Complaint for a Warrant of Abatement was filed July 16 and served on July 17. The chief did receive a written response from Libby indicating her intent to comply in some fashion along with some declarations. I don't believe the response is sufficient to constitute and answer to the Superior Court complaint. Libby also indicated she is attempting to sell her property. As such, I will work with Todd and the Chief to determine the level of compliance and options moving forward.

Homeless Encampments:

I reviewed the proposed Homeless Encampment ordinance submitted by Councilmember Blankenship. As far as I can tell, the provisions contained in the proposed ordinance are consistent with similar ordinances passed by other jurisdictions. The statutes authorizing homeless encampments by religious organizations are fluid as to what a city and cannot do. They are very specific about a city not being able to require insurance, but then pretty broad in the city's ability to protect public health etc.

Disclaimer: I couldn't find any case law really testing the individual provisions of any particular ordinance. This area of law is still developing so the ultimate legality of any particular ordinance in the eye of a court remains to be seen.

Critical Area Ordinance:

I think the council will have before it another version of the proposed CAO. My hope is it is the most

recent version. My understanding is we are waiting for council to approve final language relating to existing structures.

If you have any questions or need any additional information, please do not hesitate to ask or request.

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: July 5, 2019
Re: Current Non-Agenda Activity

3rd Street Project

Construction is almost complete. We have the wiring of street lights currently left. Starting Oct. 1st, the project will have plantings and hydro seeding performed, which will finish out the project.

Building Improvement Projects

The City has gone out to bid for the replacement of windows, roof replacement on 2 buildings, and installation of Ductless Heat Pumps. All these items have been budgeted for and are needed as part of the maintenance of our facilities and providing a safe and comfortable work environment for our employees.

2020 Budget

2020 budget season has kicked off. We are getting staff requests for next year's budget and will start our projections for next year's budget.

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: August 8, 2019
Re: Critical Areas Ordinance (CAO) Pre-existing usage

The last meeting, I was asked to provide the additional language for Grays Harbor County CAO. We have also have added/ changed some language that was recommended from Department of Health- Drinking Water.

Below is the language from Grays Harbor County CAO:

- (i) Buffer reduction for nonconforming lots.
- (1) A project permit application for a single-family dwelling unit on a nonconforming lot that is unable to meet the standard buffer width requirements under 18.06.140A(8)(a) may request a buffer reduction under the following conditions:
- (I) There is no opportunity to consolidate adjacent lots under common ownership to alleviate the nonconformity;
 - (II) The proposed building area, excluding the on-site sewage disposal system and driveway, does not exceed two thousand five hundred (2,500) square feet;
 - (III) The proposed location of the building area is within the area that has the least impact to the value and function of the habitat adjacent water body; and
 - (IV) The proposed building area is as far landward as is possible and not closer than fifty (50) feet from the ordinary high water mark.
- (2) The project permit application shall prepare a critical area special study as provided under 18.06.020 to evaluate the need for the buffer reduction and its affect to the function and value of the riparian habitat adjacent to the water body. The critical area study shall:
- (I) Inventory of [the] existing riparian habitat conditions on the parcel;
 - (II) Show the location of the proposed building area, on-site sewage disposal area, and driveways; and
 - (III) Recommend actions to enhance the undisturbed riparian habitat, if needed.
- (3) After reviewing the critical area special study, the administrator may approve, approve with conditions, or deny buffer reduction for the project permit application.
- (4) The county shall not issue a certificate of occupancy for a project permit until such time that any buffer enhancement plantings required in the administrator's decision is complete.
- (j) Nonconforming structures located within a standard buffer width.
- (1) Any structure legally existing as of the effective date of these regulations, and is located within a standard buffer width required under 18.06.140A(8)(a), may undergo normal maintenance and repair, or replacements; provided, however, that such action does not increase the degree of nonconformity.

(2) The administrator may approve a project permit application to expand any structure legally existing as of the effective date of these regulations that is located within a standard buffer width required under 18.06.140A(8)(a) provided that:

- (I) There is no expansion of the structure towards the ordinary high water mark at grade level; and
- (II) The expansion does not result in a total building area greater than two thousand five hundred (2,500) square feet at grade level.

Please review and let us know if there is any language that you prefer or if you would like to see more options.

Below is the current language in our draft CAO:

Pre-existing Uses.

Uses legally existing as of the date of adoption of this ordinance may continue operation pursuant to the following provisions and procedures. The purpose of these provisions is to assure that pre-existing uses are brought into compliance with the provisions of this chapter over time and to the highest degree possible. These provisions shall not be construed to mean that a preexisting use must cease. The following procedures and requirements are hereby established in relation to such pre-existing uses:

A. Legal Pre-existing Use Compliance Agreements: Upon identification of a legal pre-existing use, the city shall contact the person in control and/or owner in order to develop a compliance plan and time line for bringing the pre-existing use into compliance to the highest degree practicable and which provides an acceptable low level of risk. Such compliance plans shall be developed, implemented, and enforced as follows:

1. The city will negotiate with the person in control of and/or owner the subject property to identify a reasonable time frame and necessary steps to bring the use into compliance with this chapter.
2. To the extent reasonably available to it, technical assistance will be offered to the person in control of and/or the owner of the subject property by state and/or local personnel to enable the person in control and/or owner to bring the use into compliance.
3. The city will require that a written compliance plan be developed and agreed to by the person in control and/or owner setting forth the compliance steps that will be taken and the agreed time frame within which these steps will be completed.
4. Following identification of the preexisting use, the compliance plan shall be agreed to in a reasonable time, as defined by the Public Works Director on a case-by-case basis.
5. Such compliance plan will be in the form of a contract between the city and the person in control and/or owner.
6. No expansion of any non-conforming aspect of the use will be permitted.

7. Failure to meet the terms of the contract, including time frames agreed to, shall constitute a breach of contract subject to all applicable laws. If legal action on the part of the city becomes necessary to enforce the contract, the contract shall provide that the person in control and/or owner shall be liable for all expenses incurred by the City in enforcing the Agreement, including expenses incurred in the litigation, as well as in correcting the non-compliance.

Chapter 24.50 - EXISTING NONCONFORMING USES, STRUCTURES AND LOTS¹¹

24.50.010 - Purpose.

The purpose of this chapter is to establish provisions governing the development and redevelopment of existing uses, structures and lots affected by critical areas that do not conform to this title. Other requirements in the Thurston County Code and/or state/federal law may also apply that further restrict development of nonconforming uses, structures, and lots.

24.50.020 - General rules.

Alteration or expansion of legally established nonconforming structures or uses, including structures or uses that do not require a permit, is allowed subject to all of the following:

- A. Maintenance. All legally established, nonconforming structures can be maintained (e.g., painting and repairs);
- B. Alteration. Legally established nonconforming structures may be altered within their existing building footprint. Additionally, attached decks, porches, and patios may be altered in their existing footprint, excluding the addition of permanent roof structures. If applicable, also see Chapter 24.20 TCC regarding limitations in frequently flooded areas. Legally established, attached nonconforming decks, porches, or patios shall not be enclosed for use as livable space, unless the deck, porch, or patio is already covered by an existing permanent roof structure as determined by the approval authority;
- C. Expansion of conforming portions of a legally established nonconforming structure. If only a portion of the structure is nonconforming (e.g. lies within an important habitat area), expansion of the conforming portion of the structure is permitted provided the expansion does not extend into the critical area or associated buffer; and
- D. Vertical Additions. Expansion of the established nonconforming portion of the structure is prohibited, except for vertical additions consistent with applicable height regulations in the zoning district. Additions shall not be cantilevered to extend beyond the existing structure's footprint (outside wall at the foundation) into a critical area or associated buffer. Vertical additions to legally established portions of a nonconforming structure are only allowed within marine bluff or landslide hazard areas, or their buffers, if a geological assessment demonstrates that it will not negatively impact slope stability.
- E. Cantilevered alterations, expansions or additions to nonconforming portions of structures shall not extend beyond the existing building footprint into the critical area or its associated buffer.

24.50.025 - Expansion of impervious surfaces in riparian areas and pond buffers.

The approval authority may allow up to a five hundred square foot expansion of impervious surface, including an existing structure's footprint, within a riparian habitat area or pond buffer if it is determined that:

- A. All new impervious surfaces, which include structures, will be sited at a distance that is greater than or equal to the original structure(s) setback from the water body;
- B. The expansion would occur at least one hundred feet from a Type "S" or "F" stream and Type "N" stream draining to a Type "S" or "F" stream or marine waters;
- C. The area proposed for the expansion was lawfully developed prior to [the effective date of this ordinance] or, if not, the unlawful development was not caused by the present landowner or did not occur within the past seven years;
- D. If the riparian habitat area or pond buffer on the site between the water body and the primary structure has been degraded, the degraded area, or a portion of the degraded area equal to the size of the expansion, whichever is less, will be restored with native vegetation. The degraded

area chosen must be the area nearest the most sensitive habitat as determined by the approval authority;

- E. The expansion, coupled with any proposed mitigation, would be at least as effective in protecting all of the riparian habitat or pond buffer's functions as under current conditions;
- F. The proposed expansion would be consistent with the Shoreline Master Program for the Thurston Region, as amended, the impervious surface limits in the applicable zoning district, and other applicable provisions of this title;
- G. The applicant provides a performance surety consistent with Chapter 24.70 TCC to ensure survival or replacement of plants used in the restoration;
- H. No previous expansion has been allowed pursuant to this subsection; and
- I. The applicant will record a document with the subject property's title indicating that no further expansion of the structure's footprint or impervious surface is allowed within the riparian habitat area or pond buffer on the property.

24.50.030 - Alteration, expansion, repair, and maintenance—Frequently flooded areas.

Repair, maintenance, alteration, or expansion of a lawfully established nonconforming structure in frequently flooded areas shall only be allowed in the one-hundred-year floodplain, channel migration hazard area, or a high groundwater hazard area no development zone (NDZ) when consistent with all of the following:

- A. **Alteration Within Existing Footprint.** Alteration, repair, and maintenance of a legally established nonconforming structure are allowed within the existing building footprint (outside wall at the foundation) including attached decks, porches, and patios. However, within the floodway, repair, maintenance, alteration, expansion or improvements to a structure shall not increase the ground floor area, and the cost of repairs shall not exceed fifty percent of the structure's market value as determined by an accredited appraisal or the Assessor's valuation, at the owner's option. The value shall be determined based on the value of the structure either before the repair, maintenance, alternation, or expansion is started, or if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary or safety codes or to structures identified as historic buildings is not subject to the value limit above. The cumulative value of all past known alterations, repairs, and expansions conducted on or after July 24, 2013, shall be included when determining the cost of a proposed project;
- B. **Vertical Addition.** Expansion of the nonconforming portion of a structure (i.e., the portion of the structure in the critical area) is prohibited with the exception of vertical additions consistent with applicable height regulations in the zoning district and the value limits specified in subsection "A" of this section. However, such additions shall not be cantilevered to extend beyond the existing structure's footprint into a flood or channel migration hazard area;
- C. **Enclosing Decks, Porches, and Patios.** Enclosing legally established nonconforming decks, porches, or patios for use as livable space is not permitted, unless the deck, porch, or patio is already covered by an existing, permitted, permanent roof structure, as determined by the approval authority consistent with the value limits specified in subsection "A" of this section; and
- D. **Expansion of Conforming Portions of the Structure.** If only a portion of the structure is nonconforming, expansion of the conforming portion of the structure is permitted provided the expansion does not extend into the critical area consistent with Chapter 14.38 TCC.

24.50.035 - Intensification.

An intensification of a legally established nonconforming use is permitted provided that it is consistent with all of the following:

- A. The use is contained within the existing or expanded (per this title for nonconforming structures and uses) structure, or an area that has been legally used to accommodate the use;
- B. It is not different in kind from the legally existing nonconforming use; and it would not cause increased harm to the critical area, or increase the risk associated with the hazard, as determined by the approval authority;
- C. Intensification of a legally established nonconforming use shall not exacerbate flood or channel migration hazards, or pose an increased risk of water contamination in the event the site is inundated with flood waters, as determined by the approval authority;
- D. Intensification of legally established nonconforming uses shall not increase the net amount of impervious surface within a critical area and its associated buffer; and
- E. The approval authority may require use of best management practices to avoid potential impacts associated with the more intensive use.

24.50.040 - Destruction and restoration.

Restoration or rebuilding of legally established nonconforming structures and/or related appurtenances damaged or destroyed by accident, fire, explosion, act of God, or public enemy may be allowed pursuant to the applicable requirements of this chapter, and the Shoreline Master Program for the Thurston Region, as amended, provided that:

- A. Restoration or replacement of legally established nonconforming structures and/or related appurtenances shall not be allowed in the floodway;
- B. The structure may be restored or rebuilt in a nonconforming manner to the same extent (e.g. building footprint, impervious surface and square footage) that, but no more than, the pre-existing structure was nonconforming, as determined by the approval authority, unless the nonconforming structure is located in a one-hundred-year floodplain, one-hundred-year channel migration hazard area, or high groundwater flood hazard area NDZ, where restoration or reconstruction of a nonconforming structure is only permitted in accordance with Chapter 14.38 TCC. The cumulative value of all past known restorations or replacements conducted on or after July 24, 2013, shall be included when determining the cost of a proposed project;
- C. The building permit application for repair or reconstruction shall be submitted within twenty-four months of the occurrence of damage or destruction;
- D. The building or structure is not voluntarily destroyed; and
- E. If the building or structure is proposed to be relocated from the original building site, then the original building site and other degraded areas immediately adjacent to the building site shall be restored with native vegetation as a condition of the relocation, as required by the approval authority. Important wildlife habitats and areas regulated by the Shoreline Master Program, as amended, may have additional vegetation requirements.

24.50.050 - Discretionary replacement or relocation of nonconforming structures.

Discretionary replacement of legally established nonconforming structures and/or related appurtenances may be allowed pursuant to the applicable requirements of this chapter, and the Shoreline Master Program for the Thurston Region, as amended, provided that:

- A. Discretionary replacement of legally established nonconforming structures within frequently flooded areas, one-hundred-year channel migration hazard areas, and high groundwater flood hazard area NDZ is prohibited;
- B. There is no alternative outside of the critical area and associated buffer, or there is not minimally sufficient buildable area (not to exceed three thousand five hundred square feet) on the property outside the critical area and associated buffer to accommodate the building/structure, as determined by the approval authority;

- C. The replacement of a nonconforming structure and/or related appurtenances shall be prohibited if located within the shoreline management jurisdiction, unless otherwise permitted by the Shoreline Master Program, as amended;
- D. If there is no alternative location outside of the critical area and associated buffer to accommodate the structure, then replacement/relocation would occur consistent with this section and provisions for the development of existing lots in TCC Section 24.50.060 and TCC Section 24.50.065, if applicable;
- E. When possible and practical, driveways, patios, and walkways located within a critical area buffer shall be made of pervious materials and roof top runoff shall be dispersed and directed into bioretention facilities. See Chapter 15.05 TCC for additional requirements. In geologic hazard areas, the approval authority may require stormwater to be treated, tight lined and/or infiltrated, as warranted, to avoid destabilizing a slope or bluff (See TCC Section 24.15.170); and
- F. If a structure is relocated, the original building site and other degraded habitat immediately adjacent to the original building site shall be restored. The applicant shall submit a restoration plan that employs native trees and vegetation. The applicant shall provide a performance surety consistent with Chapter 24.70 TCC to insure that the vegetation used in the restoration project survives or is replaced.

24.50.060 - Development of existing lots—Critical areas excluding frequently flooded areas.

Existing lots with critical areas and their associated buffers, excluding frequently flooded areas, for which a complete application for a short plat, large lot subdivision, or subdivision, as defined in Chapter 18.08 TCC, was submitted before July 24, 2013, and other legally existing lots may be developed as follows with a critical area review permit:

- A. Except for seismic, volcanic, and mine hazard areas, all new construction of structures, facilities, utilities, access driveways and appurtenances shall be located outside of the critical area and the associated buffer unless otherwise permitted in this title;
- B. New development may be permitted on legal lots containing wetlands or buffers, consistent with other applicable provisions of this title.
- C. No new development or construction of structures, facilities, utilities, access driveways and appurtenances shall create a public safety risk, as determined by the approval authority;
- D. Enhancement or restoration (mitigation) of the affected critical area or associated buffer shall be required to offset the impacts of the proposed development, as approved by the approval authority;
- E. If a legal lot has less than three thousand five hundred square feet of buildable area outside of the critical area and its associated buffer, to accommodate the single family residential development including the primary structure, ordinary appurtenances, landscaping, and accessory structures, the approval authority may, with a critical area review permit, allow development to occupy a portion of the critical area buffer to the minimum extent necessary to provide a development site totaling no more than three thousand five hundred square feet provided:
 1. The development site shall be located in the outer fifty percent of the standard critical area buffer, except for wetlands and riparian habitat areas, where the development site shall be located in the outer twenty-five percent of the standard buffer. Development in the critical area and the inner fifty percent of the associated critical area buffer—or inner seventy-five percent of wetland and riparian area buffers—will require a reasonable use exception;
 2. The applicant shall demonstrate that due to physical constraints (e.g., topography, soil conditions, or the site's configuration), another configuration would not allow the development to occur without intrusion or with less intrusion into the critical area or buffer than the proposal;

3. The location and scale of existing development on surrounding properties shall not be the basis for granting or determining the location, scale and impact of a single family use allowed under this section;
 4. The encroachment into the critical area buffer shall be consistent with other requirements of this section for development on existing lots, requirements for a critical area review permit, and shall not have an adverse impact on species of concern, as determined by the approval authority;
 5. Site development, including clearing, grading, construction of structures, utilities, related appurtenances, and landscaping shall occupy the minimum area necessary to accommodate the use;
 6. Native tree and vegetation removal shall only be permitted to the minimum extent necessary to accommodate the proposed development, and shall not create a public safety risk;
 7. A revegetation plan consistent with this title for disturbed areas shall be submitted with the development application, and shall be completed prior to final occupancy or use;
 8. Landscaping shall not extend more than fifteen feet from the primary structure toward the important habitat or wetland;
 9. Any new structures within a critical area buffer shall be sited to avoid the creation of hazard trees;
 10. The approval authority may establish a construction setback to avoid encroachment into portions of the buffer not authorized for development, consistent with TCC Section 24.01.030;
 11. The approval authority may authorize use of additional area to the minimum extent necessary in a critical area buffer to accommodate an onsite sewage disposal system or well, consistent with other requirements of this title, only if there is no alternative;
 12. The use of this single-family residential exception shall not be a result of a self-created hardship such as subdividing the property, adjusting a boundary line, or other actions thereby creating the undevelopable conditions after July 24, 2013, or a self-created hardship created under the applicable standards of Chapter 17.15 TCC after February 1, 1994; and
- F. All other development or construction of primary structures, accessory structures, and appurtenances in the critical area and associated buffer is prohibited.

24.50.065 - Development of existing lots—Frequently flooded areas.

Existing, undeveloped lots within one-hundred-year channel migration hazard areas, frequently flooded areas and their associated buffers, for which a complete application for a short plat, large lot subdivision, or subdivision, as defined in Chapter 18.08 TCC, was submitted before July 24, 2012 and other legally existing lots may be developed as follows:

- A. All new structures, facilities, utilities and appurtenances shall be located out of the one-hundred-year floodplain and area that falls below the base flood elevation;
- B. All new nonresidential structures, facilities, utilities and appurtenances shall be located out of the high groundwater flood hazard area;
- C. No new construction of structures, facilities, utilities and appurtenances shall create a public safety risk, as determined by the approval authority, and new construction shall be consistent with Chapter 14.38 TCC; and
- D. Construction of structures, utilities and appurtenances located in the high groundwater hazard area restricted development zone shall meet the following:

1. All new residential structures shall be constructed to have the lowest floor, materials, and systems susceptible to flood damage, including mechanical support systems, located a minimum of two vertical feet above the base flood elevation;
2. All new non-residential construction shall be elevated a minimum of two vertical feet above the base flood elevation; and
3. Structures shall be located where they are least likely to be flooded.

24.50.070 - Replacement of mobile or manufactured home—Discretionary.

A mobile or manufactured home with nonconforming placement may be replaced with a new or improved manufactured home subject to applicable county regulations. However, if the size of the structure is increased by more than six hundred square feet, it shall conform to TCC Section 24.50.050. Mobile or manufactured homes may only be increased in size once pursuant to this section.

Lynden:

16.16.100 Existing Non-Conforming Uses

The following provisions shall apply to existing uses and/or buildings and/or structures that do not meet the specific standards of this chapter:

A. The lawful use of any building, structure, land, or premises existing on the effective date of the adoption or amendment of this chapter or authorized under a permit or approval issued, or otherwise vested, prior to the effective date of the adoption or amendment of this chapter may be continued, subject to the provisions for a nonconforming use in LMC 19.35.

B. Expansion, alteration, and/or intensification of a nonconforming use, building or structure, excluding normal maintenance, is prohibited if such use will produce impacts that degrade the critical area, including but not limited to vegetation clearing; additional impervious surfaces; generation of surface water runoff; discharge, or risk of discharge of pollutants; increased noise, light or glare.

C. Nonconforming structures that are destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind if there is no alternative that allows for compliance with the standards of this chapter; provided, that the following are met:

1. The reconstruction process is commenced within 18 months of the date of such damage; and
2. The reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in subsection B of this section

Chapter 19.35 - NONCONFORMING USES

19.35.010 - Existing nonconforming uses—Continuation authorized.

Any nonconforming use, as defined in the definitions of Chapter 17.01, which lawfully existed at the time of the final passage of the ordinance codified in this title, is permitted to continue and to be maintained and operated.

19.35.020 - Essential use alteration—Limitation.

A nonconforming use may be changed or altered only to uses within the same classification or to a use in a classification of higher priority in accordance with the essential use classification established in the established districts of the ordinance codified in this title.

19.35.030 - Nonconforming bulk only—Alteration—Variance required.

A nonconformer as to bulk, but not as to use, may be substantially altered, renovated, enlarged or reconstructed only through the granting of a variance as provided in this title.

19.35.040 - Enlargement or expansion—Conformance required.

A building or structure containing a nonconforming use shall not be enlarged or expanded unless the use is brought into conformance with the provisions of this title.

19.35.050 - Maintenance not to be construed as alteration.

Regular and ordinary maintenance shall not be construed as enlargement, expansion, change, alteration, renovation or reconstruction as used in this chapter.

19.35.060 - Vacancy—Use discontinuance when.

A nonconforming use which has been discontinued for a period of one year or more shall not be reactivated nor operated, nor shall an occupancy permit be granted to such discontinued use. In such instances, an occupancy permit shall be granted only when the use has been brought into conformity with the provisions of this title. When a building or structure is vacant, the use therein shall be deemed discontinued.

19.35.070 - Deterioration or destruction—Use discontinuance when.

When a building or structure containing a nonconforming use is destroyed or deteriorates to the extent to fifty percent or more, as determined by the building inspector, such nonconforming use shall be discontinued and any subsequent use of the property shall be in conformance with the provisions of this title.

Bainbridge Island:

16.20.050 Standards for existing development

A. Existing Structures and Related Improvements. Structures and related improvements that were legally built or vested prior to the effective date of the ordinance codified in this chapter that do not meet the requirements of this chapter may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this section and all other applicable sections of this chapter.

B. Existing buildings that were legally built or vested prior to the effective date of the ordinance codified in this chapter may be altered only one time within the lifetime of the structure, and:

1. The expansion of the footprint is outside a landslide hazard area or landslide hazard area setback unless required for safety or seismic upgrades;
2. Any expansion of the footprint is located only within a critical area buffer. No expansion of the footprint is allowed within a wetland or fish and wildlife habitat conservation area;
3. Any expansion of the footprint within a critical aquifer recharge area is located outside the aquifer recharge protection area pursuant to BIMC 16.20.100.E.
4. Cantilevers over critical areas are not allowed;
5. The expansion of the footprint at ground level does not exceed 500 square feet;
6. Any expansion of the footprint is used only as indoor living space or to accommodate accessibility;
7. Any expansion of the footprint is no closer to the critical area than the existing footprint; and
8. If a building is harmed or destroyed by more than 50 percent of its square footage, the building must be reconstructed in compliance with the requirements of this chapter.

C. Existing property improvements other than buildings, including driveways, parking areas, yards and landscaped areas, play areas, storage areas, decks less than five feet in height, patios, and similar improvements that were legally established or vested prior to the effective date of the ordinance codified in this chapter may be altered if:

1. Any alteration is in substantially the same location as the original property improvement;
2. Any expansion of the footprint is located only within the required buffer. No expansion of the footprint is allowed within the critical area itself and cantilevers over critical areas are not allowed;
3. Any expansion of the footprint is no closer to the critical area than the existing footprint; and
4. Any expansion of the footprint within a critical aquifer recharge area is located outside the aquifer recharge protection area pursuant to BIMC 16.20.100.E.

D. Buffer modifications pursuant to BIMC 16.20.110 and 16.20.140 shall not be granted for existing development.

E. Alterations permitted by this section must comply with other applicable city code or land use review requirements and require submittal of a critical areas permit application in accordance with the permit and review procedures required for the affected critical area(s).

ORDINANCE NO. _____

AN ORDINANCE RELATING TO CRITICAL AREAS; ADOPTING DEFINITIONS, AMENDING CERTAIN SECTIONS OF CHAPTER 18.08 MMC, ADDING NEW SECTIONS TO CHAPTER 18.08 MMC, ESTABLISHING PROCEDURES; ADDING NEW SECTIONS TO CHAPTER 18 OF THE MUNICIPAL CODE; AND PROVIDING FOR INTERPRETATION, SEVERABILITY, AND AN EFFECTIVE DATE.

RECITALS:

1. The Council and Mayor have received the recommendations of the involved City staff as to the updating of the provisions of the Municipal Code relating to critical area delineation, processing, protection, and related matters.
2. All necessary environmental reviews have been completed.
3. It is the intention of the Council to adopt the recommendations as set forth in the following sections.

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

SECTION I: Section 18.08.030 and Section 2, Ordinance 703 are each amended to read as follows:

Definitions.

When used in this Chapter, the following definitions shall apply:

1. Administrator or Director: the (~~City Administrator~~) Director of Public Works or his/her designee.

2. Applicant: any person who files a permit application with the City of McCleary and who is either the owner, beneficial owner, contract purchaser, or authorized agent of such owner of the land on which the proposed activity would be located.

3. Aquifer recharge area: areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

4. Critical areas: includes the following areas and ecosystems as defined in RCW 36.70A.030 and WAC 365-195-200, as now existing or hereafter amended or succeeded:

- a. Wetlands;
- b. Areas with a critical recharging effect on aquifers used for potable water (referred to herein as “aquifer recharge areas”);
- c. Fish and wildlife habitat conservation areas;
- d. Frequently flooded areas; and e.

Geologically hazardous areas.

5. Fish and wildlife habitat area: land managed for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not

created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state. Fish and wildlife habitat conservation areas include areas with which endangered, threatened, and sensitive species have a primary association; waters of the state; state natural area preserves and natural conservation areas; and streams and rivers planted with game fish by a governmental agency.

6. Frequently flooded areas: lands in the flood plain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like. The 100-year flood plain designations of the National Flood Insurance Program delineate the presence of frequently flooded areas.

7. Geologically hazardous areas: areas that, because of the susceptibility to erosion, sliding, earthquake, or other geological events, are not generally suited to locating commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas have slopes greater than 15% with known erosion, landslides, settling, rockslide, debris flow and/or seismic hazards as defined by the US Department of Agriculture Soil Conservation Service.

8. Wetland or wetlands: areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities,

wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

9. Qualified expert: a person preparing a technical assessment who has expertise appropriate to the relevant critical area. Expertise shall consist of professional credentials and/or certification, any advanced degrees earned in the pertinent scientific discipline from a recognized university, the number of years of experience in the pertinent scientific discipline, recognized leadership in the discipline of interest, formal training in the specific area of expertise, and field and/or laboratory experience with evidence of the ability to produce peer-reviewed publications or other professional literature. Geologists preparing technical assessments shall meet the requirements of a licensed geologist under Chapter 18.220 RCW. A qualified expert for aquifer recharge areas must be a currently licensed Washington State geologist holding a current specialty license in hydrogeology.

SECTION II: Section 18.08.040 and Section 3, Ordinance 703 are each amended to read as follows:

Compliance with critical areas protection.

All public and private land uses in the city of McCleary subject to the provisions of this chapter shall comply with the requirements of this chapter as a condition to the issuance of any permit requested under Titles 15, 16 and 17 of the McCleary Municipal Code. The city shall deny any permit that fails to protect a critical area as required in this chapter, except as provided in Section (~~18.08.040 and~~) 18.08.050 or the issuance of which is otherwise required or authorized by a provision of this chapter.

SECTION III: Section 18.08.050 and Section 4, Ordinance 703 are each amended

to read as follows:

Exempt Activities in Critical Areas.

The following uses or activities within a critical area or critical area buffer are exempt from the requirements of this Article to the extent that they are not prohibited by other state or federal laws and do not degrade the critical area:

- A. Conservation, enhancement, restoration, or preservation measures or projects;
- B. Low intensity, passive recreational uses;
- C. Short-term scientific studies and educational uses;
- D. Repair and maintenance of existing public roads, bridges, and storm water facilities;
- E. Walkways (~~without structures~~) and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.;
- F. Public parks;
- ~~G.~~ Site investigation work necessary for land use applications; and
- ~~H.~~ (~~Forest practices governed by RCW 76.09~~) The growing and harvesting of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974, as amended, and regulations adopted pursuant

thereto; including, but not limited to, road construction and maintenance; aerial operations; applications of fertilizers and pesticides; helispots; and other uses specific to growing and harvesting timber forest products and management activities, except those Forest Practices designated as "Class IV -General Forest Practices" under the authority of the "Washington State Forest Practices Act Rules and Regulations," WAC Chapter 222, as now existing or hereafter amended or succeeded, PROVIDED FURTHER THAT compliance with this chapter is required for all new construction, grading, land clearing, and other uses subject to Section 18.08.080, and any Class IV Conversion Permit issued pursuant to the State Forest Practices Act, which involves conversion to a Permit Required Use.

SECTION IV: Section 18.08.070 and Section 6, Ordinance 703 are each amended to read as follows:

Technical assessments required.

A. Applications for any permit approval under Titles 15, 16 and 17 of the McCleary Municipal Code shall indicate whether any critical area is located on, under, or within ~~(two)~~ three hundred (300) feet of the site. The ~~(administrator)~~ director or designated representative shall visit the site, and in conjunction with a review of the comprehensive land use plan, information provided by the applicant, and any other suitable information, make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient, the administrator shall notify the applicant to provide additional information in the technical assessments before the issuance of any determination of completeness under Titles 16 and 17 or permit issued under Title 15.

B. It is the responsibility of the applicant to provide the city with appropriate technical assessments prepared by a qualified expert, whose selection is acceptable to the city,

to fulfill the requirements of an application for a permit under Titles 16 and 17, or a building permit issued under Title 15. The applicant shall pay all expenses associated with the preparation of any technical assessment required by the city. Technical assessments shall use the best science available in accordance with RCW 36.70A.172.

SECTION V: Section 18.08.080 and Section 7, Ordinance 703 are each amended to read as follows:

Wetland delineation and protection.

A. Fundamental Goals: The city shall regulate development activities to protect wetlands. Development activities shall not diminish the capacity of wetlands to:

1. Provide flood and storm water control;
2. Recharge the aquifer;
3. Improve surface and ground water quality by trapping sediments, removing nutrients, and providing chemical detoxification;
4. Stabilize the streambed along Wildcat Creek;
5. Preserve or enhance anadromous fisheries; and
6. Protect (~~Jeopardize~~) federally listed endangered and threatened species.

B. Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary.

C. Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by the Department of Ecology).

D. The city adopts by reference the following maps and best available science resources for wetlands in the city of McCleary and the urban growth area:

1. National Wetlands Inventory Map, US Fish and Wildlife Service.
2. Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County Washington, Map Sheet 41, USDA, 1986.

~~(3. Washington State Wetlands Identification and Delineation Manual, Washington Department of Ecology, 1997, Publication #96-94;~~

~~4. Washington State Wetland Rating System for Western Washington, Washington Department of Ecology, 1993, Publication #93-74; and 5)~~

E. If the location, designation, or classification of a wetland shown on any map adopted through the ordinance codified in this chapter or the comprehensive land use plan is in conflict with the determination of any field investigation, the latter shall prevail.

F. The city prohibits development activities in wetlands unless:

1. No practical alternative exists for locating the project elsewhere on the property; or
2. The prohibition precludes any reasonable use of the property.

~~A wetland buffer that separates a wetland boundary from a regulated use is mandatory to mitigate adverse impacts of development activities. The following standards shall apply when determining buffer widths:~~

G. A wetland buffer that separates a wetland boundary from a regulated use is mandatory to mitigate adverse impacts of development activities. The following buffer widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high.

1. Buffer widths are measured perpendicularly from the wetland boundary. ~~Buffer widths are determined according to a wetland's rating:~~

- ~~a. Category I wetlands require a buffer width of two hundred feet;~~
- ~~b. Category II wetlands require a buffer width of one hundred feet;~~
- ~~c. Category III wetlands require a buffer width of fifty feet; and~~
- ~~d. Category IV wetlands require a buffer width of twenty five feet.~~

2. For wetlands that score 5 points or more for habitat function, the buffers in Table F.1 can be used if the following criteria are met:

a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife.

b. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

c. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table F.1 may be used with the required measures in Table F.2 alone.

e. The measures in Table F.2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.

3. For wetlands that score 3-4 habitat points, only the measures in Table F.2 are required for the use of Table F.1.

4. If an applicant chooses not to apply the mitigation measures in Table F.2, or is unable to provide a protected corridor where available, then Table F.3 must be used.

5. The buffer widths in Table F.1 and F.3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

~~A technical assessment prepared by a qualified expert may reduce the required buffer width if it will not adversely affect the function of the wetland or that the use of other mitigation measures achieves the same result.~~

Table F.1 Wetland Buffer Requirements for Western Washington if
 Table F.2 is Implemented and Corridor Provided

Wetland Category	Buffer width (in feet) based on habitat score			
	3-4	5	6-7	8-9
Category I: Based on total score	75	105	120	150
Category I: Forested	75	105	120	150
Category I: Bogs and Wetlands of High Conservation Value	190			
Category I: Vernal pool	150			
Category II: Based on total score	75	90	120	150
Category II: Vernal pool	150			
Category II: Forested	75	105	120	150
Category III (all)	60	90	120	150
Category IV (all)	40			

Table F.2 Required measures to minimize impacts to wetlands
(Measures are required if applicable to a specific proposal)

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> · Direct lights away from wetland
Noise	<ul style="list-style-type: none"> · Locate activity that generates noise away from wetland · For activities that generate relatively continuous potentially disruptive noise, such as certain heavy · For activities that generate relatively continuous
Toxic runoff	<ul style="list-style-type: none"> · Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered · Establish covenants limiting use of pesticides within
Stormwater runoff	<ul style="list-style-type: none"> · Retrofit stormwater detention and treatment for roads and existing adjacent development · Prevent channelized flow from lawns that directly enters the buffer
Change in water regime	<ul style="list-style-type: none"> · Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> · Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance
Dust	<ul style="list-style-type: none"> · Use best management practices to control dust

Table F.3 Wetland Buffer Requirements for Western Washington if Table F.2 is NOT Implemented or Corridor NOT provided

Wetland Category	Buffer width (in feet) based on habitat score			
	3-4	5	-7	8-9
Category I: Based on total score	100	140	220	300
Category I: Bogs and Wetlands of High Conservation Value	250			300
Category I: Coastal Lagoons	200		220	300
Category I: Interdunal				300
Category I: Forested	100	140	220	300
Category I: Estuarine	200 (buffer width not based on habitat scores)			
Category II: Based on score	100	140	220	300
Category II: Interdunal Wetlands	150		220	300
Category II: Estuarine	150 (buffer width not based on habitat scores)			
Category III (all)	80	140	220	300
Category IV (all)	50			

H. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

2. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.

3. The total buffer area after averaging is equal to the area required without averaging

4. The buffer at its narrowest point is never less than either $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

~~If an application for development activities makes it necessary to alter or eliminate a wetland, the applicant shall enhance or replace the wetland based upon a technical assessment and mitigation plan prepared by a qualified expert. Altered wetlands may require enhancement to ensure the same level of wetland function that existed at the time of the permit application. The replacement of eliminated wetlands shall be at a ratio of 1:1, have an equal or greater wetland rating, and be at a location approved by the city.~~

I. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State—Part 2: Developing Mitigation Plans—Version 1, (Ecology Publication #06-06-011b, Olympia,

WA, March 2006, or as revised), and *Selecting Wetland Mitigation Sites Using a Watershed Approach* (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

J. Mitigation ratios shall be consistent with the following table. Mitigation requirements may also be determined using the credit/debit tool described in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report* (Ecology Publication #10-06-011, Olympia, Washington, March 2012, or as revised)

consistent with subsection H of this Chapter.

K. Wetland Mitigation Ratios: Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

L. A qualified expert shall prepare any wetland technical assessments

required by the city. The report shall include:

1. The exact location of the wetland boundary;
2. An evaluation of wetland functions and values;
3. An analysis of how the proposed use would or would not diminish the wetland protection standards under subsection A of this section; and
4. Recommendations for mitigating adverse environmental impacts on wetland values and functions during construction and post-construction.

18.08.100 Aquifer recharge areas delineation and protection.

A. The city shall regulate development activities in aquifer recharge areas to protect groundwater quality and quantity for use as a potable water source.

B. The city adopts by reference the following best available science resources for delineating aquifer recharge areas in the city of McCleary and the urban growth area:

1. Geohydrology of the Chehalis River Valley, McCleary to Oakville, Grays Harbor County, Washington, Paul Eddy and Robert Carson, Washington Department of Ecology Geohydrologic Monograph No. 3, 1973;

2. Hydrogeologic Characterization for Protection of Wildcat Creek Aquifer, Grays Harbor County, Washington, HartCrowser, April 12, 1994;

3. If the location, designation, or classification of an aquifer recharge area shown on any map adopted by reference under the UDC is in conflict with the determination of any field investigation, the latter shall prevail.

4. Letter from HartCrowser dated January 15, 2003.

5. Water Quality Standards for Groundwater, Chapter 173-200 WAC.

C. A qualified expert who is a licensed geologist shall prepare any technical assessment required by the city for an aquifer recharge area. The report shall include:

1. A characterization of the site and its relationship to the aquifer;

2. A discussion of the effects of the proposed development activities and its ability to meet the establish standards of subsection A of this section; and

3. Recommended mitigation measures to ensure compliance with the standards set forth under subsection A of this section.

(Ord. 703 § 9, 2003)

SECTION VI: Section 18.08.110 and Section 10, Ordinance 703 are each amended to read as follows:

Fish and wildlife habitat conservation areas: delineation and protection.

A. The city shall regulate development activities in fish and wildlife habitat conservation areas to maintain species in suitable habitats within their natural geographic distribution and to prevent isolated subpopulations. In addition, the city shall consider conserving or protecting anadromous fisheries in Wildcat Creek.

B. The city adopts by reference the following maps and best available science resources for fish and wildlife habitat conservation areas in the McCleary urban growth area:

1. Priority Habitat Maps, Washington Department of Fish and Wildlife; and

2. Salmon and Steelhead Limiting Factors, Water Resource Inventory Areas 22 and 23, by Carol Smith and Mark Wenger, Washington Conservation Commission, June 2001.

C. A qualified expert shall prepare any technical assessment required by the city for development activities on parcels located within two hundred feet of a fish and wildlife habitat conservation area. The technical assessment shall include:

1. An analysis and discussion of species or habitats known or suspected to be located within two hundred feet of the site;

2. Evaluation of the effects of the proposed development activities and its ability to meet the established standards of Section 18.08.100(A) of this chapter; and

3. Recommended mitigation measures to ensure compliance with the standards set forth under Section 18.08.100(A). In cases where a fish and wildlife habitat conservation area is on or adjacent to a development site, the following provisions shall apply: ~~a minimum separation of up to fifty feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.~~

a. Types 1 and 2 streams, will be regulated by the City of McCleary Shoreline Master Program.

b. Type 3 streams or other perennial or fish bearing streams that are five to 20 feet wide, a minimum separation of up to 200 feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.

c. Type 3 streams or other perennial or fish bearing streams that are less than five feet wide, a minimum separation of up to 150 (feet) may be required for regulated uses if the technical assessment indicates the need for such a buffer.

d. Type 4 and 5 streams or intermittent streams with low mass wasting potential, a minimum separation of up to 150 feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.

e. Type 4 and 5 streams or intermittent streams with high mass wasting potential, a minimum separation of up to 225 feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.

These widths are measured on each side of the stream, starting at the ordinary high-water line. However, if the stream reach is located in a broad, alluvial valley and able to migrate across the valley, these width measurements begin at the edge of the channel migration zone (the area within which a stream has or may migrate laterally under its current geomorphic regime-it is commonly defined by historic meander limits or meander belt width.

D. The Public Works Director may allow the recommended habitat area buffer width to be averaged in accordance with a critical area report, the most current, accurate, and complete scientific or technical information available, and the management recommendations issued by the Washington State Department of Fish and Wildlife, only if:

1. It will not reduce stream or habitat functions;
2. It will not adversely affect salmonid habitat;
3. It will provide additional natural resource protection, such as buffer enhancement;
4. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
5. The buffer area width is not reduced by more than 25 percent in any location.

E. The following alterations may be made within the buffer upon approval of a plan by the Public Works Director, when consistent with all other provisions of this chapter:

1. Outdoor recreational activities, including fishing, bird watching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;

2. Flood control activities;

3. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas;

4. Minor modification of existing serviceable structures within a buffer zone;

5. Trails, footbridges, and water-related public park facilities;

6. Utility lines and related facilities.

SECTION VII: A new section shall be added to Chapter 18.08 MMC to read as follows:

Pre-existing Uses.

Uses legally existing as of the date of adoption of this ordinance may continue operation pursuant to the following provisions and procedures. The purpose of these provisions is to assure that pre-existing uses are brought into compliance with the provisions of this chapter over time and to the highest degree possible. These provisions shall not be construed to mean that a preexisting use must cease. The following procedures and requirements are hereby established in relation to such pre-existing uses:

A. Legal Pre-existing Use Compliance Agreements: Upon identification of a legal pre-existing use, the city shall contact the person in control and/or owner in order to develop a compliance plan and time line for bringing the pre-existing use into compliance to the highest degree practicable and which provides an acceptable low level of risk. Such compliance plans shall be developed, implemented, and enforced as follows:

1. The city will negotiate with the person in control of and/or owner the subject property to identify a reasonable time frame and necessary steps to bring the use into compliance with this chapter.

2. To the extent reasonably available to it, technical assistance will be offered to the person in control of and/or the owner of the subject property by state and/or local personnel to enable the person in control and/or owner to bring the use into compliance.

3. The city will require that a written compliance plan be developed and agreed to by the person in control and/or owner setting forth the compliance steps that will be taken and the agreed time frame within which these steps will be completed.

4. Following identification of the preexisting use, the compliance plan shall be agreed to in a reasonable time, as defined by the Public Works Director on a case-by-case basis.

5. Such compliance plan will be in the form of a contract between the city and the person in control and/or owner.

6. No expansion of any non-conforming aspect of the use will be permitted.

7. Failure to meet the terms of the contract, including time frames agreed to, shall constitute a breach of contract subject to all applicable laws. If legal action on the part of the city becomes necessary to enforce the contract, the contract shall provide that the person in control and/or owner shall be liable for all expenses incurred by the City in enforcing the Agreement, including expenses incurred in the litigation, as well as in correcting the non-compliance.

B. Development Proposals within Interrupted Stream or Wetland Buffers:

Adjacent areas that may be physically separated from a stream or wetland due to existing, legally established structures or paved areas may be exempted from the prescribed buffer widths if proven scientifically to be functionally isolated from the stream or wetland. The director

will require the applicant to provide a site assessment and functional analysis documentation report by a qualified critical area consultant that demonstrates the interrupted buffer area is functionally isolated. The director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation.

SECTION VIII: A new section shall be added to Chapter 18.08 MMC to read as follows:

Temporary Uses.

The Public Works Director shall have the authority to authorize temporary uses pursuant to the terms and conditions of this section. This section provides a process for authorizing certain uses or activities of a nonpermanent nature for a limited duration.

A. The application shall contain those requirements the Public Works Director deems appropriate based on the duration of the use and its potential for environmental impact.

B. Temporary uses shall be consistent with all standards set forth in this Chapter. For any temporary use the city shall impose such other reasonable conditions as may be found necessary to ensure that the activity or use is not incompatible with surrounding conforming uses and will not result in a potential environmental impact.

C. Certificates of Temporary Use shall expire according to the terms set forth in the approval and / or may be revoked by the Public Works Director if terms of the Temporary Use are not followed.

SECTION IX: A new section shall be added to Chapter 18.08 MMC to read as follows:

Reasonable use exceptions.

A. If the application of this Chapter would deny all reasonable use of a site, development may be allowed pursuant to this section which is consistent with the general purposes of this Chapter and the public interest. Nothing in this Chapter is intended to preclude all reasonable use of property.

B. An applicant for a development proposal may file a request for a reasonable use exception which shall be considered by the Public Works Director. Such an application shall contain the following information:

1. A description of the areas of the site which are critical areas and/or resource lands or within setbacks required under this Chapter;

2. A description of the amount of the site which is within setbacks required by other jurisdiction standards;

3. A description of the proposed development, including a site plan;

4. An analysis of the impact that the amount of development would have on the resource lands or critical areas;

5. An analysis of whether any other reasonable use with less impact on the resource lands or critical areas is possible;

6. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the resource lands and/or critical areas;

7. Such other information as the Public Works Director determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.

C. After review of the application and the completion of any necessary reviews, the Public Works Director may approve the reasonable use exception if the Public Works Director determines all of the following criteria are reasonably met:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the resource lands or critical areas;

2. The proposed development does not pose a threat to the public health, safety or welfare on or off the site;

3. Any alteration of the resource lands and/or critical areas shall be the minimum necessary to allow for reasonable use of the property;

4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of the Chapter; and

5. The proposal mitigates the impact on the resource lands and/or critical areas to the maximum extent possible, while still allowing reasonable use of the site.

SECTION X: A new section shall be added to Chapter 18.08 MMC to read as follows:

Building Setback Lines.

Minor structural intrusions into the area of the building setback identified pursuant to this Chapter may be allowed if the Public Works Director determines that such intrusions will not negatively impact the wetland.

SECTION XI: A new section shall be added to Chapter 18.08 MMC to read as follows:

Signs and Fencing of Wetlands and Buffers.

As a condition of any permit or authorization issued pursuant to this chapter, the Public Works Director may require the outer perimeter of the wetland buffer and/or the clearing limits identified and marked in the field with signs and/or fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Public Works Director or his/her designee, prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

As a condition of any permit or authorization issued pursuant to this chapter, the Public Works Director may require the applicant to install permanent signs and/or fencing along the boundary of a wetland or buffer.

SECTION XII: A new section shall be added to Chapter 18.08 MMC to read as follows:

Signs and Fencing of Fish and Wildlife Habitat Conservation Areas.

A. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the Public Works Director or his/her designee prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

B. As a condition of any permit or authorization issued pursuant to this chapter, the Public Works Director may require the applicant to install permanent signs and/or fencing along the boundary of a habitat conservation area or buffer.

SECTION XIII: A new section shall be added to Chapter 18.08 MMC to read as follows:

General provisions.

A. All development proposals, whether public or private, shall comply with the requirements and purposes of this chapter and the adopted administrative rules. Lots approved for development prior to adoption of this chapter shall be vested. Responsibility for enforcement of this chapter shall rest with the director. For the purposes of this chapter, "development proposals" include proposals which require any of the following: building permit, shoreline substantial development permit, shoreline variance, shoreline conditional use permit, conditional use permit, unclassified use permit, variance, zone reclassification, shoreline environment redesignation planned unit development, subdivision, short subdivision, master plan development, binding site plan, or any subsequently adopted permits or required approvals not expressly exempted from this chapter

B. When sufficient information to evaluate a proposal is not available, the director shall notify the applicant that special studies are required. A special study shall include a site analysis, a discussion of potential impacts, and specific mitigation measures designed to mitigate the potential impacts. A monitoring program may be required to evaluate the effectiveness of the mitigation measures.

C. Prior to accepting a development application tendered pursuant to the zoning code or the subdivision code, the data maps shall be consulted for the purposes of determining whether or not the property subject to the application is within any area shown as a critical area or resource land. When such areas are encountered, the applicant will promptly be notified and the type(s) of critical or resource areas disclosed. Instructions shall be provided to the applicant on the

type of evaluation and site-specific analysis that will be required as a supplement to the application materials necessary to bring the application up to a standard that can be characterized as complete and eligible for processing. If the subject property does not lie within or partly within the critical areas or resource lands as depicted on the data maps, the application will be considered complete, provided the application requirements of the ordinance governing the process at issue are satisfied.

D. From the effective date of the ordinance codified in this chapter, no development application processed under the zoning or platting/subdivision titles shall be approved without a written finding that this chapter has been considered, additional information has been assembled under this chapter or was not required, and that the purpose and intent of this chapter has been accorded substantial consideration.

E. The requirements set forth in this chapter shall be considered as minimum requirements in the processing of development applications under subdivision and zoning titles and represent standards in addition to the requirements set forth in those titles.

F. No site analysis required by this chapter will be considered complete without a detailed resume of the principal author(s) which disclose(s) their technical training and experience and demonstrates their stature as qualified professionals.

Interpretation:

A. In the event that any standard, map, best available science resource adopted by reference in this Chapter is superseded by an updated successor, that successor shall be deemed to have been adopted automatically by this reference and thereafter shall be utilized in processing, consideration, and approval or denial of any application submitted after such adoption.

B. In the event that an area which is within the Critical Areas classification is also within an area subject to the City's Shoreline Management Plan, the latter shall preempt the application of the Critical Areas provisions.

C. Unless specifically exempted, compliance with this chapter is required for all new construction, grading, land clearing, and other uses subject to Titles 15, 16 and 17 of MMC, and any Class IV Conversion Permit pursuant to the State Forest Practices Act, which involves conversion to a Permit Required Use.

SECTION XIV: Severability.

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 XV: This Ordinance shall take effect upon the fifth day following date of publication: PROVIDED THAT Any project which is subject to this Chapter for which a completed application has been submitted to and accepted by the City prior to the effective date of this ordinance shall be governed by the provisions of the Code in effect as of the date the application is deemed complete in keeping with MMC 17.40.040.

SECTION XVI: 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 _____, 2019, by the City Council of the City of McCleary, and signed in approval therewith this ____ day of _____, 2019.

CITY OF McCLEARY:

BRENDA ORFFER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer
APPROVED AS TO FORM:

CHRISTOPHER COKER, 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 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 _____, 2019,
by WENDY COLLINS.

Print Name _____
NOTARY PUBLIC in and for the State
of Washington, residing at _____
Commission expires: _____

CITY OF MCCLEARY
McCleary, Washington

ORDINANCE _____

AN ORDINANCE OF THE CITY OF MCCLEARY, WASHINGTON, ADDING A NEW CHAPTER _____
ENTITLED AGGRESSIVE PANHANDLING – PEDESTRIAN INTERFERENCE – PUBLIC CAMPING TO THE
MCCLEARY MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE

WHEREAS, the city has a compelling interest in protecting its citizens and its most vulnerable residents and visitors from threatening, intimidating or harassing behavior caused by coercive solicitations, in preserving the quality of life and in protecting and preserving public health, safety and welfare.

WHEREAS, coercive solicitation causes fear and intimidation upon citizens, and harms tourism and businesses; and

WHEREAS, the City Council finds that it is important to the general welfare of the citizens and residents of the city to protect and preserve the public safety of pedestrians and to insure the safe and efficient movement of pedestrian and vehicle traffic in public places. The city council further finds that public rights of way serve the primary purpose of enabling pedestrian and vehicular traffic to safely and efficiently move about from place to place and that public rights of way have become increasingly congested and should be maintained to serve their primary purposed. Protect the citizens of McCleary from fear and intimidation accompanying coercive solicitation, to promote tourism and business and to preserve the quality of urban life while providing safe and appropriate venues for constitutionally protected activities.

WHEREAS, the city has an interest in discouraging the use of public parks as temporary living quarters.

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

Section 1. MMC Chapter _____ entitled “AGGRESSIVE PANHANDLING – PEDESTRIAN INTERFERENCE – PUBLIC CAMPING” is added to read as follows:

Chapter _____

AGGRESSIVE PANHANDLING – PEDESTRIAN INTERFEERENCE – PUBLIC CAMPING

Sections:

X.XX.XXX Purpose.

X.XX.XXX Definitions.

X.XX.XXX Pedestrian Interference.

X.XX.XXX Aggressive Panhandling – Prohibited.

X.XX.XXX Penalty

X.XX.XXX Purpose.

The purpose of this chapter is to regulate and punish acts of coercive and aggressive panhandling/solicitation, and acts of begging that occur at locations or under circumstances specified herein which create an enhanced sense of fear or intimidation in the person being solicited, or pose a risk to traffic and/or public safety.

X.XX.XXX Definitions.

The following definitions apply in this chapter:

- (1) “Aggressive Panhandling/Solicitation” means to beg with the intent to intimidate or coerce another person into giving money or goods.
- (2) “Coerce” or “coercive” means to do any of the following with intent:
 - a. To approach, speak or gesture to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with a commission of a criminal act upon the person, another person or property in the person’s possession; or
 - b. To approach within one foot of a person for the purpose of making a solicitation without obtaining said person’s initial consent; or
 - c. To persist in a solicitation after the person solicited has given a negative response; or
 - d. To block the passage of a person, pedestrian traffic, a vehicle or vehicular traffic while making a solicitation; or
 - e. To engage in conduct that would reasonably be construed as intended to compel or force a person being solicited to accede to demands; or
 - f. To make any false or misleading representation in the course of making a solicitation.
- (3) “Intimidate” means to engage in conduct which would make a reasonable person fearful or feel compelled.
- (4) “Panhandling/Solicitation” means: any means of asking, begging, requesting, or pleading made in person, orally or in a written or printed manner, directed to another person, requesting an immediate donation of money, contribution, financial aid, charity, gifts of items or service of value, or the purchase of an item or service for an amount far exceeding

its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation.

- (5) "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, shall not constitute obstruction of pedestrian or vehicular traffic.
- (6) "Public property" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.
- (7) "Public transportation facility" means a facility or designated location that is owned, operated, or maintained by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state for the purpose of facilitating bus and other public transportation.

X.XX.XXX Pedestrian interference.

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

- (1) Obstructs pedestrian or vehicular traffic; or
- (2) Aggressively Panhandles

X.XX.XXX Aggressively Panhandles – Prohibited.

- (1) It shall be unlawful for a person to Aggressively Panhandle/Solicitation.
- (2) To use profane, offensive, or abusive language, which is inherently likely to provoke an immediate violent reaction.
- (3) To use violent or threatening gestures toward a person.

X.XX.XXX Restricted Areas

Begging shall be deemed a violation of this section under the following conditions:

- (A) Within 25 feet of an ATM machine or financial institution;
- (B) Within 15 feet of any (1) occupied handicapped parking space, or (2) bus stop, train station or in any public parking lot or structure or walkway dedicated to such parking lot or structure;
- (C) Before sunrise or after sunset at any public transportation facility or on any public transportation vehicle or
- (D) While a person is under the influence of alcohol or controlled substances.

(E) It is unlawful for any person to park any motor vehicle or trailer or place a tent or any other structure or material on public property for the purpose of sleeping therein or thereon or maintaining the same as a temporary or permanent residence.

X.XX.XXX Penalty

(1) First Offense. Pedestrian interference is a misdemeanor. Aggressive Panhandling/Solicitation is a misdemeanor. Any person violating this chapter shall be punished by a fine not to exceed \$1000 or by imprisonment and jail for not more than 90 days or by both such fine and imprisonment.

(2) Second Offense. Every person who violates any of the provisions of this chapter a second time within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. One hundred dollars of the fine and one day of imprisonment shall not be suspended or deferred.

(3) Third or Subsequent Offense. Every person who violates any of the provisions of this chapter a third or more times within a five-year period shall be guilty of a misdemeanor, punishable by a fine of not more than \$1000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. Five hundred dollars of the fine and five days imprisonment shall not be suspended or deferred.

Section 2. Severability. If any section, clause, and/or phrase of this Ordinance is held invalid by a court of competent jurisdiction, such invalidity and/or unconstitutionality shall not affect the validity and/or constitutionality of any other section, clause, and/or phrase of the Ordinance.

Section 3. Effective Date. This Ordinance shall be effective five days from its adoption and publication as required by law.

CITY OF MCCLEARY
McCleary, Washington

ORDINANCE _____

TEMPORARY HOMELESS ENCAMPMENTS

X.XX.XXX Purpose.

X.XX.XXX Definitions

X.XX.XXX Application for Temporary Homeless Encampment Permit.

X.XX.XXX Requirements for Approval and Operation.

X.XX.XXX Revocation of Permit.

X.XX.XXX Purpose.

The purpose of this chapter is to regulate homeless encampments within the City of McCleary in compliance with the requirements of RCW 35.21.915. The standards and requirements in this chapter are the minimum necessary to protect the public health and safety and do not substantially burden the decisions or actions of religious organizations regarding the location of housing or shelter for homeless persons on property owned by such religious organizations.

X.XX.XXX Definitions

The following definitions apply in this chapter:

(1). "Host" means a property owner or local religious organization that hosts a Temporary Homeless Encampment on its property; has an agreement with a managing agency to provide basic services and support for the residents of a Temporary Homeless Encampment; acts as liaison with the surrounding community; and joins with the managing agency in an application for a Temporary Homeless Encampment Permit. A host may be the same entity as the managing agency.

(2). "Managing agency" means an organization or property owner that is responsible for organizing and managing a Temporary Homeless Encampment. A managing agency may be the same entity as the host.

(3). "Temporary homeless encampment" means a temporary encampment for homeless persons on property owned or controlled by a religious organization, whether within buildings located on the property or elsewhere on the property outside of buildings.

(4). “Sponsoring Agency” means the Host Agency or another agency that assists the Host Agency and that joins in an application for a Temporary Homeless Encampment Permit and assumes responsibility for providing basic services and support to Temporary Homeless Encampment residents, such as hot meals and coordination of other needed donations and services.

(5). The RCW 35A.21.360 definition of “religious organization” is incorporated by reference into this chapter.

(6). The International Fire Code definitions of “tent,” “canopy,” and “membrane structure” are incorporated by reference into this chapter.

X.XX.XXX Application for Temporary Homeless Encampment Permit.

A. No more than one Temporary Homeless Encampment shall be permitted in the City at any one time and no more than one Temporary Homeless Encampment shall be permitted in the City within a calendar year due to the limitations on City resources and services that are necessary to support Temporary Homeless Encampment; the City further finds that these limitations on resources and services would cause public health, safety and welfare impacts if more than one Temporary Homeless Encampment was authorized at a time.

B. A Temporary Homeless Encampment is an allowed use only on property owned or controlled by a religious organization that is acting as either the Host Agency or the Sponsoring Agency, or both, for the Temporary Homeless Encampment.

C. An application for a Temporary Homeless Encampment Permit shall be submitted to the Public Works Director or his/her designee on a form approved by the Public Works Director. The application shall contain, at a minimum, all of the following information:

1. The name, address, and telephone number of the Host Agency, and the telephone number and email address for a designated representative of the Host Agency; and

2. The name, address, and telephone number of the Sponsoring Agency, and the telephone number and email address for a designated representative of the Sponsoring Agency; and

3. The proposed location of the Temporary Homeless Encampment and information as to whether the Temporary Homeless Encampment will be located inside a building or outside a building on property owned or controlled by the Host Agency; and

4. The date on which Temporary Homeless Encampment is proposed to move onto the proposed location and the date on which the Temporary Homeless Encampment is proposed to vacate the proposed location; and

5. The maximum number of residents proposed; and

6. A site plan showing the proposed location of the facilities required by this chapter; and

7. A statement demonstrating how the Temporary Homeless Encampment will meet the requirements of this chapter.

D. The application for a Temporary Homeless Encampment Permit must be accompanied by an application fee established by resolution of the City Council. The application fee shall be based on actual costs associated with the review and approval of the application. The application shall not be considered complete unless and until the application fee is paid.

E. An application for a Temporary Homeless Encampment Permit must be filed at least thirty days before the date on which the Temporary Homeless Encampment is proposed to move onto the proposed location, provided, that the Public Works Director may agree to a shorter period in the case of an emergency beyond the control of the Host Agency and Sponsoring Agency.

F. An application for a Temporary Homeless Encampment Permit shall be processed as a Conditional Use Permit under MMC 17.40.110.

G. The Public Works Director shall coordinate review of the Temporary Homeless Encampment permit with appropriate City staff and with other appropriate public agencies, including but not limited to, Public Health – Grays Harbor County and the McCleary Fire Department. The Public Works Director may issue the Temporary Homeless Encampment Permit if the application demonstrates that:

1. The Temporary Homeless Encampment will not be materially injurious to the public health, safety, and welfare or materially injurious to the property or improvements in the immediate vicinity.

2. All of the requirements of this chapter are met.

H. The sponsoring agency and host shall provide a written indemnification and hold harmless agreement stating that the city is not responsible for the actions, inactions, or omissions of the host, managing agency, or of any resident of the temporary homeless encampment. The managing agency and host shall indemnify, defend, and hold the city, its officials, officers, employees, agents, and volunteers, past and present, harmless from any and all claims of liability of any nature whatsoever for the injury to or death of any person or damage to any property, real or personal, including attorney's fees, arising out of or occasioned in any manner by reason of the following: (a) the actions, inactions or omissions of the managing agency, host, or any encampment resident; and (b) the city's lawful entry into the temporary homeless encampment to enforce this chapter.

I. The sponsoring agency and/or host shall provide a certificate of liability insurance for at least one million dollars pertaining to the temporary homeless encampment and naming the city as the insured.

J. Decisions of the Public Works Director granting, granting with conditions, or denying a Temporary Homeless Encampment Permit shall be subject to appeal as provided in MMC 17.40.090.

X.XX.XXX Requirements for Approval and Operation.

A. A temporary Homeless Encampment must meet all of the following requirements in addition to any other requirements imposed by this chapter:

1. The property or building must be of sufficient size to accommodate the proposed number of tents and residents and the on-site facilities required by this section.

2. Adequate provision must be made for the provision of drinking water, disposal of human waste, disposal of garbage and other solid waste, and the provision of other services, including, but not limited to, the following facilities:

a. Sanitary portable toilets or other restroom facilities in the number required to meet health regulations for the residents and staff of the Temporary Homeless Encampment; and

b. Hand washing stations by the toilets or restrooms and by food service areas; and

c. Refuse receptacles meeting the requirements of the City's solid waste hauler; and

d. A food service tent or other food service building or facility meeting health department requirements; and

e. A management tent or other management office or facility providing administrative and security services and readily identifiable to residents and visitors.

3. The Temporary Homeless Encampment shall meet all setbacks for the zoning district in which the property is located, provided, that where the Temporary Homeless Encampment abuts property containing residential uses, the Temporary Homeless Encampment shall be set back twenty feet from the property line or the minimum setback provided in the MMC, whichever is greater.

4. A six-foot tall sight obscuring fence shall be provided around the perimeter of the Temporary Homeless Encampment unless the Public Works Director determines that there is sufficient vegetation, topographic variation, or other site conditions to provide equivalent screening of the use from adjacent properties.

5. Any and all exterior lighting for the Temporary Homeless Encampment shall meet the requirements of the zoning district in which the property is located.

6. The maximum number of residents within a Temporary Homeless Encampment shall not exceed 50.

7. Parking for at least five (5) vehicles shall be provided.

8. No children under the age of 18 shall be allowed in the Temporary Homeless Encampment. If a child under the age of 18 attempts to reside at the Temporary Homeless Encampment, the Sponsoring Agency or the Host Agency shall immediately contact Child Protective Services.

9. No animals shall be permitted in the Temporary Homeless Encampment, except for documented service animals.

10. The Sponsoring Agency and/or the Host Agency shall submit a code of conduct for the Temporary Homeless Encampment and a statement describing how the code of conduct will be enforced. The code of conduct shall, at a minimum, contain the following:

- a. A prohibition on the possession or use of illegal drugs or alcohol.
- b. A prohibition on the possession of guns, knives with blades in excess of three inches, and weapons of all kinds.
- c. A prohibition on violence.
- d. A prohibition on open flames.
- e. A prohibition on trespassing into private property in the surrounding neighborhood.
- f. A prohibition on loitering in the surrounding neighborhood.
- g. Hours during which quiet is to be observed.

11. A transportation plan must be submitted by the Sponsoring Agency and/or the Host Agency providing for access to transit. All Temporary Homeless Encampments must be located within one-half mile of transit service.

12. The Temporary Homeless Encampment must comply with all regulations of Washington State, the City of McCleary, and Public Health – Grays Harbor County. The Temporary Homeless Encampment shall comply with the requirements of the International Fire Code and Washington Cities Electrical Code as adopted by the City of McCleary. The Sponsoring Agency and Host Agency shall permit inspections at all reasonable times by appropriate public officials from the agencies enforcing these codes for code compliance.

13. The Sponsoring Agency and/or Host Agency shall take all reasonable and legal steps to obtain verifiable identification from prospective residents of the Temporary Homeless Encampment. A resident log of all people residing at the Temporary Homeless Encampment shall be maintained on site. When signing the log, prospective encampment residents shall provide a State of Washington Driver's License, State of Washington Identification Card, a driver's license or identification card issued by another state, or other similar document that confirms a person's identity. The Sponsoring Agency and/or Host Agency shall be responsible for verifying that the log is being properly kept and that the required identification is being provided.

14. The Sponsoring Agency and/or Host Agency shall use the identification to obtain sex offender and warrant checks from the appropriate agency. If the warrant and sex offender check reveal that a prospective resident or existing resident is a sex offender who is required to register with the police or that the prospective resident has an outstanding warrant, the Sponsoring Agency and/or Host Agency shall reject the prospective resident or evict the existing resident.

15. Adequate access for fire and emergency medical apparatus shall be provided.

16. Adequate separation between tents and other structures shall be maintained in order to limit fire exposure and provide for emergency exiting by residents.

17. Temporary Homeless Encampment Permits may be approved for a time period not to exceed 90 days. No Temporary Homeless Encampment shall be permitted on any single property for more than 90 days in any calendar year.

Modification for Emergencies.

The provisions herein shall not apply when for the preservation of public health and safety the situation necessitates a need for emergency management planning and the application of MMC 2.48.

X.XX.XXX Revocation of Permit.

1. The Public Works Director may revoke a Temporary Homeless Encampment Permit for violation of any of the requirements of MMC 17.40.110. A decision of the Public Works Director to revoke a Temporary Homeless Encampment Permit may be appealed to the hearing examiner as provided in Chapter 17.40.090 MMC. The decision of the Public Works Director to revoke a Temporary Homeless Encampment Permit shall be stayed during any appeal to the hearing examiner, but the stay will be lifted if the hearing examiner upholds the revocation. The decision of the land use hearing examiner shall be final unless appealed to superior court within ten days or within such other time period as may be mandated by applicable state law.

2. Upon revocation of the Temporary Homeless Encampment Permit, all residents of the encampment must vacate the premises within forty-eight hours of revocation. The host shall be required to remove all physical evidences of the use and to restore or replant any required vegetation within one week of revocation.

3. Nothing contained in this chapter is intended to, nor shall be construed to, impose upon the city any duty that can become the basis of a legal action for injury or damage.

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: August 8, 2019
Re: Janitorial Contract

We have recently gone out to bid for our janitorial services and have received a few responses. Staff will be reviewing the bids and will have a recommendation at the Council meeting.

Action Requested:

Please accept the recommended bid and allow the Mayor to sign the contract for Janitorial services.

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: August 8, 2019
Re: Window Replacements

We have recently gone out to bid replace 29 single pane windows, replacing 6 skylights and adding 11 new windows at the McCleary City Hall with Energy Star® rated windows designed to lower heat loss or gain and meet current building codes. There are 40 windows total; sized approximately 40" X 77", 34" X 39" and 6 skylights 30" X 30". The windows being replaced are part of the original construction.

This is a budgeted item in the 2019 budget. Staff will review the bids and have a recommendation at the council meeting.

Action Requested:

Please accept the recommended bid and allow the Mayor to sign the contract for the window replacements.

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: August 8, 2019
Re: Pole Bids 45'

Our current inventory of 45 ft. poles is getting low and we need to replenish our stock in order to continue the maintenance and upgrades of our power system. We went out to bid in early July and a total of 1 bid was received by the August 9th deadline. I have attached the information and provided a summary below.

<u>Pole Supplier (Manufacturer)</u>	<u>Cost</u>
McFarland Cascade	\$ 28,720 plus WA State Tax

The 2019 budget includes \$250,000 for system improvements, which this material is intended to be used for. We have use some of that budget, but still have funds available for this purchase in the fund.

Staff Recommendation:

The recommendation at this time is to award the purchase of the power poles to McFarland Cascade.

Action Requested:

Please consider awarding the pole purchase to McFarland Cascade, out of Tacoma, WA, for a cost of \$28,720 plus Washington State Sales Tax.



CHEHALIS BASIN PARTNERSHIP

C/O Grays Harbor County
100 West Broadway, Montesano, WA 98563
kharma@chehalisriver.org
(360) 488-3232
www.chehalisbasinpartnership.org

May 23, 2018

Mayor Brent Schiller
City of McLeary
100 South 3rd Street,
McCleary, WA
98557

Dear Mayor,

There is a new opportunity for the Chehalis Basin Partnership to define locally-specific plans for water management under a new Streamflow Restoration Law (ESSB 6091), commonly known as the “Hirst Fix.” We, the active CBP members, are asking you to re-engage in the CBP to help complete this important task. The Chehalis Basin Partnership (CBP) formed in 1998 for the purpose of watershed assessment, planning, and management. The City of McCleary was an important part of developing the Chehalis Basin Watershed Management Plan, which was adopted by the whole CBP in 2004. A reason for developing the Plan was to ensure that the future management of the water resources of the Chehalis Basin remains in the hands of the residents to the greatest extent possible. Water continues to be vitally important to the communities of the Chehalis River Basin, as does the need to manage these resources locally.

The Department of Ecology has asked the CBP as the Planning Unit for this watershed to engage in implementing the “Hirst Fix,” specifically by updating the Watershed Plan to address rural exempt wells and their impacts on stream flows. Grants will be available in the near term to fund projects supported by the CBP that meet the goals of the legislation. If the CBP does not complete this task, the Department of Ecology will set rules for the basin.

Attached is a list of the currently active CBP members, as well as vacancies. If you or someone you designate choose to participate, your time commitment will be approximately one meeting per month. Meetings are typically held the fourth Friday of every month, and are held at the Lucky Eagle Casino in Rochester. Our **next meeting** will be **Friday, June 22, 2018**. Further technical work will likely be required by interested participants outside of these meeting times.

We believe the outcome of the Watershed Plan update will be better with your participation. Please notify us as to whether or not you would like to re-engage with the group in developing the Watershed Plan update. Please send your response to the Watershed Coordinator, Kirsten Harma, at: kharma@chehalisriver.org, (360) 488-3232.

Sincerely,

Terry Harris, Chair, Chehalis Basin Partnership

Chehalis Basin Partnership – Designated Seats and Current Representative

Member Counties	Designated Representative
Grays Harbor County	Commissioner Wes Cormier
Lewis County	Commissioner Bobby Jackson
Mason County	<i>vacant</i>
Thurston County	Commissioner Bud Blake
Member Tribes	
Confederated Tribes of the Chehalis	Glen Connelly
Member Ports	
Port of Centralia	<i>vacant</i>
Port of Grays Harbor	Charles Caldwell
Member Cities & Towns	
Aberdeen	Kris Koski
Centralia	Sue Luond
Chehalis	Terry Harris
Montesano	Dan Wood
Hoquiam	<i>vacant</i>
McCleary	<i>vacant</i>
Napavine	<i>vacant</i>
Ocean Shores	<i>vacant</i>
Pe Ell	<i>vacant</i>
Member Water Districts	
Thurston PUD	Commissioner Chris Stearns
Grays Harbor Water District #2	<i>vacant</i>
Boistfort Valley Water	<i>vacant</i>
Member Citizen Representatives	
Grays Harbor County	<i>vacant</i>
Lewis County	Jim Hill
Mason County	<i>vacant</i>
Thurston County	<i>vacant</i>
Member Agencies	
WA Dept of Agriculture	<i>vacant</i>
WA Dept of Ecology	TBD
WA Dept of Fish and Wildlife	Amy Spoon
WA Dept of Natural Resources	Bob Johnson
Member Stakeholder Group Representatives	
Business	<i>vacant</i>
Fisheries	Lonnie Crumley
Agriculture	Brian Thompson
Forestry	<i>vacant</i>
Environment	Jan Robinson

PROJECT CHARTER
WRIA 22 & 23 WATERSHED PLAN UPDATE IN RESPONSE TO RCW 90.94
showing edits received between 4/26/19 Partnership meeting and 6/24/19

Background

The Chehalis Basin Partnership, pursuant to the authority of the Interlocal Cooperation Action (RCW 39.34) and the authority of the 1998 Watershed Management Act (RCW 90.82), Initiating Governments established Grays Harbor County as the Lead Agency and the Chehalis Basin Partnership (Partnership) as the Planning Unit for the purposes of Watershed Planning. The Partnership developed and approved its Watershed Plan in 2004; that plan, and subsequent updates were adopted by participating counties – Lewis, Thurston, and Grays Harbor. The Partnership is now tasked with developing an update to its Watershed Plan in response to RCW 90.94, which addresses potential impacts and mitigations for future permit-exempt well domestic uses. The mandated deadline for this activity is February 2021.

Scope and Expected Outcomes

The purpose of this work is addressing the legislative mandate RCW 90.94. The scope of the resulting watershed plan addendum is to estimate the consumptive water use associated with projected domestic permit-exempt well use in the Chehalis Basin over the next 20 years, and to determine appropriate mitigation for that use. It is expected that the product of this effort will be an addendum to the existing 2004 Watershed Plan and will likely include the identification of projects and policies to ensure implementation.

Charter Purpose and Need

The Partnership formalized its organization and outlined its intentions for the watershed planning process through an Intergovernmental Agreement. In addition, the Partnership has an Operating Procedures Manual, accepted on September 24, 2004, which serves as a guide for members. The Operating Procedures Manual details how the Partnership will carry out the Intergovernmental agreement by further describing the composition, roles, membership requirements, participant conduct expectations, decision protocols, and programs/projects in which the Partnership works.

While Chapter 90.94 RCW Streamflow Restoration Action and the mandated watershed plan update is not described in the Operating Procedures Manual, and must be completed within a compressed time period. This charter does not amend either the Intergovernmental Agreement nor the Operating Procedures, but rather describes specific anticipated aspects of the Plan Update, and clarifies how those align with the both the Intergovernmental Agreement as well as the Operating Procedures Manual and RCW 90.94:

- Participant thresholds for Partnership members
- Participant role for the Quinault Indian Nation
- Outreach and support for Partnership members to maintain participation
- Planning team organizational structure
- Consensus decision-making

Participant Thresholds for Partnership Members

The Intergovernmental Agreement, Section 4 described the composition of the Partnership member organizations and designated representatives. Since 2004 when the Operating Procedures Manual was approved, participation from the membership list has been variable and some designated representatives have left their organizations. Because of the compressed time frame for the RCW 90.94 Watershed Plan Update, members who wish to participate and be eligible to vote need to be determined quickly.

The Partnership Coordinator and other Partnership members have attempted phone and/or written contact with all listed member organizations. A few member organizations have not responded regarding their interest in participating as Partnership members in the RCW 90.94 Watershed Plan Update. The Partnership will reach out via phone and written correspondence during April 2019 to advise that the Plan Update is beginning, and their participation is invited. A deadline of May 31, 2019 is established for Partnership members to begin participating. Non-participation at that point in time will make them ineligible to vote on the Plan Update. [Exceptions may be considered by the Partnership in cases such as a change of elected leadership or similar circumstances.](#)

Participant Role for the Quinault Indian Nation

The Quinault Indian Nation is not signatory to the Chehalis Basin Partnership Initiating Governments Agreement and is therefore not listed as a Partnership member in the Operating Procedures Manual. RCW 90.94.020(3) requires that Initiating Governments invite participation from any “federally recognized Indian tribe that has usual and accustomed harvest area within the water resource inventory area.” The Nation has historically participated regularly in Partnership meetings and has conveyed its intent to participate in the RCW 90.94 Watershed Management Plan Update (9/28/18 letter from Quinault Indian Nation President Fawn Sharp to Chehalis Basin Partnership). Terry Harris, Partnership Chair, responded to President Sharp’s letter on January 22, 2019¹ “The Chehalis Basin Partnership welcomes your technical and policy members for full participation, as if they were formal signatory members, at upcoming CBP meetings relevant to the Watershed Plan Update.”

Outreach and Support for Partnership Members to Maintain [Voting Eligibility](#)

The Operating Procedures Manual describes the process through which members with poor attendance will be addressed (Section 5.4), however that process could take more than six months to confirm whether an organization has stopped participating or get another designated representative from the organization engaged. Because of the compressed schedule for the RCW 90.94 Watershed Management Plan Update, the Partnership will take a more proactive approach as follows:

1. If a member misses two meetings in a row, the Partnership coordinator, facilitator, or member will reach out to the missing member to inquire about missed meetings, update the missing member on status and active decisions related to the RCW 90.94 Plan Update, and assess whether the missing member intends and is able to return. They will report back to the Planning Unit.
2. If a third meeting is missed, a second reach-out will occur to inform the designated representative and organization that they are in jeopardy of losing voting eligibility.

¹ Date on letter reads “2018,” when it should read 2019, and references President Sharp’s 9/28/18 letter.

Commented [CC1]: Lee and QIN to work together to capture acceptable language from the ILA

3. After one month from the second reach-out, the organization and designated member will be informed via written notification that they are no longer considered to be an active member with voting eligibility for the Plan Update. The notice will request acknowledgement of this status.

Planning Team Organizational Structure

For the purposes of the RCW 90.94 Watershed Management Plan Update, the Partnership will organize as follows:

- Planning Unit – Review, discuss, and approve watershed plan update methodologies, results, plan update components, and the plan update; provide feedback and direction to the Steering/Technical Committee, Technical Work Groups, Partnership Coordinator, and Facilitator
- Steering/Technical Committee – Review working materials, including Planning Unit topics prior to Planning Unit meetings, provide consultation and guidance to Partnership Coordinator and Facilitator.
- Technical Work Groups – Develop analysis, results, and plan update content for Planning Unit consideration. Evaluate alternate methodologies and provide recommendations to Steering /Technical Committee and Planning Unit.
- Facilitator – Create and maintain Plan Update schedule and work plan. Work with Partnership Coordinator, Technical Work Groups, Steering /Technical Committee and Planning Unit to ensure that work progresses on schedule and that participating Planning Unit members stay engaged. Facilitate Planning Unit meetings and planning process.
- Partnership Coordinator – Oversee and work with consultant Facilitator to ensure Plan Update progresses as needed, and participating Partnership members stay engaged. Continue role as point of contact for the Partnership, and manage meeting logistics, scheduling, and other administrative activities.
- Lead Agency – Grays Harbor County will continue to be the lead agency for the purpose of applying for and administering watershed planning grants and providing and/or contracting for services necessary for facilitation, preparing plan amendment, and supporting reports.

Consensus Decision-Making

The Planning Unit will strive to make decisions by consensus of all members of the Planning Unit as per the Chehalis Basin Partnership Operating Procedures manual.

Decision-making procedures are described in [both Appendix A of the Interim By-laws as well as](#) Section 4.7 and Appendix C of the Operating Procedures Manual; these will be adhered to. An additional step may be used if the disagreeing parties within the Partnership request to work off-line to resolve disagreements and formulate a mutually-acceptable solution. That solution would then be brought back to the Partnership for formal decision-making. Any inability to reach full consensus shall be documented in the meeting record with the positions of the refusing parties clearly stated. If the Planning Unit participants are unable to reach consensus and the addendum is not adopted, the WA Department of Ecology must then adopt rules for WRIA 22 and 23 that meet the requirements of the legislation.

Ground Rules

Ground rules are described in Chapter 3 of the Operating Procedures and apply to this planning effort. For participating member organizations, roles and responsibilities are described as follows:

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- Prepare for, attend, and participate in all Partnership meetings (one meeting per month requiring approximately 4 to 8 hours per month).
- Participate in additional meetings of subcommittees or work groups as necessary (an additional 4 to 8 hours per month).
- Communicate on a regular basis with other people in the member organization to inform them of Partnership discussions and facilitate consensus within the member group on key issues (perhaps 4 to 8 hours per month).
- Present fairly the interests and ideas of the member organization as a whole to the Partnership regardless of personal feelings.
- Recognize the legitimacy of the concerns and interests of others, whether or not they are in agreement with them.
- State their concerns and interests clearly, listen carefully to others, and explore issues from all points of view before forming conclusions.
- Give the same priority to solving the problems of others as to solving their own.

Members commit to:

- Search for opportunities: creativity will make a better plan.
- Listen carefully: ask questions to understand and make statements to explain or educate.
- Act on "fact" not "rumor".
- Attempt to protect each other and the process politically with constituencies and general public.
- Attempt to reach consensus on a plan.
- Be an advocate for an agreed plan.

Three additional ground rules are included for this planning effort:

- The parties agree that the addendum may not require or obligate any participating entity to take any specific implementing action, or refrain from taking any specific action, unless that entity so agrees.
- The parties agree to utilize best available science in all cases while giving local experience and knowledge, and traditional knowledge consideration.
- The parties agree to listen to each other and consider the needs of the whole basin.

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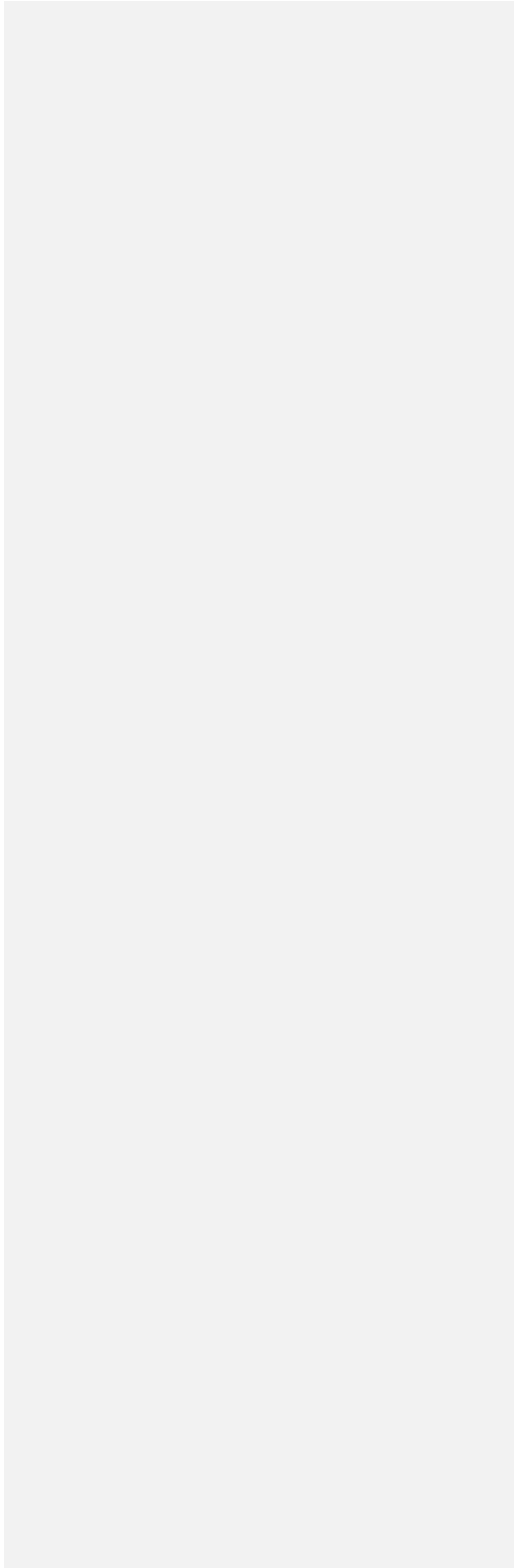
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Signatures

DRAFT



STAFF REPORT

To: Mayor Orffer and Councilmembers
From: Wendy Collins, Clerk-Treasurer
Date: August 14, 2019
Re: AWC Master Participation Agreement - Update Dental Plan

AWC Employee Benefit Trust currently provides medical and dental insurance for the City employees through an Employer Master Participation Agreement.

In 2017, the police received approval from the City Council to change from the Association of Washington Cities (AWC) plan to a LEOFF Health Trust Plan because it offered a plan with increased benefits. At that time, the overall cost was less per month, due to the LEOFF1 retiree monthly cost decreasing considerably. The employee's plans cost a minimal amount more.

I recently spoke with AWC and they pointed out we have the lowest coverage dental plan offered from Delta Dental of Washington. We currently have Plan A, which offers very little coverage annually. Plan J offers a significant amount of coverage annually at a very low increase.

Plan A		Plan J		Difference
Employee	\$ 52.78	Employee	\$ 56.65	\$ 3.87
Employee + 1 dependent	\$ 100.21	Employee + 1 dependent	\$ 107.15	\$ 6.94
Employee + 2 or more dependents	\$ 158.28	Employee + 2 or more dependents	\$ 167.73	\$ 9.45

With Plan J, all Class 1 dental care does not accrue toward the plan maximum (our current plan accrues all care toward the plan maximum). Plan J also increases the annual plan maximum from \$1,000 to \$1,500.

Action Requested:

The City respectfully requests the City Council authorize the Mayor to sign the Master Participation Agreement, which includes changing the dental plan from Plan A to Plan J.



Employer Master Participation Agreement

awcnet.org

The AWC Employee Benefit Trust is a plan sponsor for health coverage through the following insurance carriers:

Medical	Dental	Vision	EAP	Life & LTD
Regence 1800 Ninth Ave Seattle, WA 98101 ASURIS 528 E Spokane Falls Blvd, Suite 301 Spokane, WA 99202 KAISER PERMANENTE 601 Union Street, Suite 3100 Seattle, WA 98101	DELTA DENTAL Delta Dental of Washington 9706 Fourth Ave NE Seattle, WA 98115	VSO 3333 Quality Drive Rancho Cordova, CA 95670	COMPSYCH NBC Tower 455 N. Cityfront Plaza Drive Chicago, IL 60611-5322	The Standard Standard Insurance Company 1100 SW 6th Ave Portland, OR 97204
	Willamette Dental Group Willamette Dental of Washington, Inc. 6950 NE Campus Way Hillsboro, OR 97124			

Employer: City of McChesney Date form completed: _____

Initial Employer Master Participation Agreement Effective date: 09/01/2019

Change to existing Employer Master Participation Agreement The effective date of the change is: _____

The change to the existing Employer Master Participation Agreement is: Change dental plan

Form completed by: (name, title) Wendy Collins, Clerk-Treasurer

Total number of full-time employees eligible for ANY employer sponsored health coverage: _____

Total number of full-time employees:	Eligible	Enrolled
AWC sponsored medical plans	<u>22</u>	<u>18</u>
AWC sponsored dental plans	<u>22</u>	<u>18</u>
AWC sponsored vision plans	_____	_____

Total number of LEOFF I actives: Fire dept: 0 Police dept: 0

Total number of LEOFF I retirees: Fire dept: 0 Police dept: 0

Do you provide health coverage for your elected officials? Yes No

Total number of elected officials:	Eligible	Enrolled
AWC sponsored medical plans	_____	_____
AWC sponsored dental plans	_____	_____
AWC sponsored vision plans	_____	_____

Do you provide health coverage for your part-time employees? Yes No

If yes, provide your definition of minimum hours worked per week in order for part-time employees to be eligible for benefits. (Cannot be less than 20 hours/week.) _____

Total number of part-time employees:	Eligible	Enrolled
AWC sponsored medical plans	_____	_____
AWC sponsored dental plans	_____	_____
AWC sponsored vision plans	_____	_____

Eligibility criteria:

EMPLOYEES:

- 1. Employees are covered the first day of the month after date of hire. Yes No
- 2. Employees have a _____ probationary period and then are covered the first of the month following the date probationary period is completed. Waiting period and enrollment cannot be longer than 90 days. (Written employer policy must be submitted to AWC.)
- 3. If an employee's hire date is the first day or first working day of the month - is your policy to (check one):
 - A. Start the employee's insurance on the first of that month or
 - B. Start the employee's insurance on the first of the month *following date of hire*
- 4. Employee's insurance coverage terminates the first of the month following the date of termination/date of retirement.
 - Yes No

If no, please explain employer policy below. (Written employer policy must be submitted to AWC.)

DEPENDENTS:

- 1. Spouse/Domestic partners are eligible to be covered on the employer's plan. Yes No
- 2. Domestic partner health care coverage is required by state law. If you have a more generous domestic partner policy than required by Washington state law (RCW 48.44.900), attach the policy.

Joining the Trust:

- 1. Newly enrolling cities/groups commit to a minimum of three years participation in the Trust.

Plan additions OR plan changes:

- 1. Written notification of change and/or addition of plan(s) should be sent to the AWC Trust office 30-days prior to the change and/or addition. This will be accomplished by completing a new Master Participation Agreement.

Coverage termination:

- 1. Written notification of total city coverage termination must be sent to the AWC Trust office as outlined in the Trust Agreement.
- 2. Cities of any size terminating a group or line of coverage must notify the Trust a minimum of 60 days prior to termination in order to facilitate a smooth transition. Terminations are allowed the first of any month following the 60 day notification period.

Employers should refer to the Trust Agreement which governs the AWC Employee Benefit Trust and is the legal document that guides the Trust. It contains information and requirements on joining and participating in the Trust. A copy is provided upon joining the Trust and re-issued when the agreement is amended and restated.

I have provided these answers as part of the procedure required by the AWC Employee Benefit Trust to provide or change any AWC Trust-sponsored insurance coverage for our employees. I certify that all information completed on this form is true, correct, and complete. I understand that the AWC Trust will rely on each answer to ensure underwriting rule compliance. It is a crime to knowingly provide false, incomplete, or misleading information to the Board of Trustees for the purposes of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits. In addition, the Board of Trustees will have the right to collect any claims payments or other damages.

Signed

Date

Title