



McCleary City Council Agenda

04/10/19- 6:30PM

Flag Salute

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

Presentation			Summit Pacific Opioid Addiction Program
Mayor Comments			
Public Comment			
Minutes		Tab	A 03.27.2019
Approval of Vouchers			
Staff Reports		Tab	B Chris Coker
		Tab	C Todd Baun
		Tab	D Staff Reports
Old Business		Tab	E Lindsey Baum Garden
New Business		Tab	F Department of Enterprise Surplus Agreement Renewal
		Tab	G IT Contract Renewal
		Tab	H STIP Amendment
		Tab	I Critical Areas
		Tab	J Home Abatement Discussion
Ordinances		Tab	K Critical Area Ordinance
Resolutions			
Contracts			
Mayor/Council Comments			
Public Comments			
Adjourn/Recess Meeting			

Please turn off Cell Phones- Thank you

Americans with Disabilities Act (ADA) Accommodation is Provided Upon Request
The City of McCleary is an equal opportunity provider and employer.
La ciudad de McCleary as un proveedor de igualdad de oportunidades y el empleador

TAB - A

CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, March 27, 2019

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

ABSENT Mayor Orffer attended by telephone. Mayor Pro Tem Huff Chaired the meeting.

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

EXECUTIVE SESSION At 6:30 pm, Mayor Pro Tem Huff called for an executive session per RCW 42.30.110(1)(c) to discuss property acquisition for ten minutes. The Executive Session ended at 6:40 pm. No action was taken.

PUBLIC COMMENTS

Bob Pringle has an issue with a neighbor who has trash in their back yard that has drawn rats to the neighborhood. He stated there is a bad smell coming from the garbage and there is also a tent in the back yard, which he believes people are living in. He wants to know what steps to take to get the house condemned. He is also concerned over the house on 3rd Street that had a fire over a year ago. He wants to know when and how it will be dealt with. Attorney Chris Coker responded stating there are specific steps that must be taken. The first line of defense after a complaint, is voluntary compliance. If there is no compliance, then the next step is abatement in court. Mr. Pringle's complaint is being dealt with through the proper procedure.

Jay Biggs works for Comcast and he is also a member of the McCleary VFW. Comcast has a grant program called Comcast Cares and Mr. Biggs applied and was awarded the grant. He is inviting the community to join Comcast employees and VFW Members on May 4th to assist in fixing a wall on their building. The front of the hall has a brick fascia that has begun to fail and needs to be removed and re-sided. There is also a hidden exterior wall that has aged with warped wood and is leaking. In addition to the building work, they will also be putting together Assistance Kits for our homeless veterans that will be distributed locally and to other areas.

Frances Black serves lunches to the senior citizens on Fridays. She is concerned the lunch program will end when the church closes. Todd Baun assured her there are alternative locations that have offered facilities for them to use, in the event the current location becomes unavailable. Ms. Black expressed concerns about accessibility at other locations and wants to be sure those who need accessible supports will have them.

MAYOR COMMENTS Mayor Pro Tem Huff welcomed everyone and was happy to be chairing the meeting tonight.

VOUCHERS Accounts Payable checks approved were 45779 - 45837, including EFT's, in the amount of \$260,123.64.

It was moved by Councilmember Richey, seconded by Councilmember Heller to approve the vouchers. Motion Carried 4-0.

MINUTES APPROVED **It was moved by Councilmember Iversen, seconded by Councilmember Richey to adopt the minutes from the March 13, 2019 meeting. Motion Carried 4-0.**

CITY ATTORNEY REPORT Chris Coker provided a written report for the Council. He has been working on lien issues and the critical areas ordinance.

DIRECTOR OF PUBLIC WORKS REPORT Todd Baun provided a written report for the Council.

POLICE CHIEF REPORT None.

PARK PLAN DISCUSSION The Planning Commission duties have been handled by the City Council since previous members' terms have expired. In order to complete the new park plan update, staff needs a planning effort from the Council, or if they choose, they can delegate the duties to an alternative group. One suggestion is to have the McCleary Civic Renewal Council function in this role. The MCRC recently performed a survey, which could be utilized, if they were considered for taking over the planning. **It was moved by Councilmember Blankenship, seconded by Councilmember Richey to refer the park planning duties to the McCleary Civic Renewal Council. Motion Carried 4-0.**

ELECTRICAL ENGINEERING DISCUSSION The City has not updated their electrical engineering services since 2008. Todd sent out a Request for Proposals for Electrical Engineering and received some very good proposals. Todd provided the names of three firms that submitted a proposal and extended an invitation to the City Council to participate in the interviews. Councilmembers Heller and Richey offered to attend.

3RD STREET LETTER A resident on 3rd Street submitted a letter asking the City Council to consider dedicating the SR108 exit and access at SR18 as the only truck routes through the City. Todd Baun stated the City would need approval from the State and from the Washington State Department of Transportation. If heading toward Olympia, the semi trucks would have to go to the West exit and turn left, which is dangerous. Mayor Orffer stated this would be an unfunded mandate. Chris Coker added that the State has a strong voice in preventing cities from refusing to allow movement of goods and services, including causing congestion on the highways.

PUBLIC COMMENT Todd Baun reported the crew will be performing crack sealing on Main Street this summer.

MEETING ADJOURNED **It was moved by Councilmember Blankenship, seconded by Councilmember Richey to adjourn the meeting at 7:27 pm. The next meeting will be Wednesday, April 10, 2019 at 6:30 pm. Motion Carried 4-0.**

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

TAB - B

Younglove & Coker

A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEYS AT LAW

"SINCE 1974"

1800 COOPER POINT ROAD SW, BLDG 16, PO BOX 7846, OLYMPIA, WASHINGTON 98507-7846

TELEPHONE (360) 357-7791

FACSIMILE (360) 754-9268

OFFICE@YLCLAW.COM

Memorandum

TO: Mayor and City Council, City of McCleary
FROM: Christopher John Coker, City Attorney
DATE: April 2, 2019
RE: Significant/Interesting Legal Activities as of April 10, 2019.

My office worked on finalizing the amended Critical Areas Ordinance required by the Dept. of Ecology. If not getting on this council agenda will be on one in the very near future.

There has been some discussion about seeking an Order of Abatement for 511 S. 3rd Street. This is the property that burned in November 2017. The costs involved with pursuing an abatement are difficult to gauge. With no objection or push back from the property owner, cost is likely in the \$1500 for attorney's fees. If it turns in to a fight, costs can go up. I would normally suggest allowing City staff to make one last attempt to work with the property owner to comply. I would recommend this in this case as well. Mainly because it sounds like the property owner has a history of coming in to compliance, and we haven't had much contact with the property owner lately.

Finally, Lori Ann sent me a list of 5 properties to initiate the lien process on for unpaid utility bills. (One of the properties happens to be 511 S. 3rd St. discussed above). The balances owed range from \$219.13 to \$4,903.59. I am in the process of working on those properties and hope to have an update by the next council meeting.

If you have any questions please do not hesitate to follow up with me directly.

TAB - C

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: April 3, 2019
Re: Current Non-Agenda Activity

3rd Street Project

Construction has started. A majority of my time is currently on the site, making sure that things are off to a good start.

Beerbower Park Playground

The crew has completed installation of the playground equipment. We hope that everyone gets a chance to check it out and we also hope the children enjoy using it for many years to come.

City Wide Clean-Up

City wide clean-up is scheduled for April 27th.

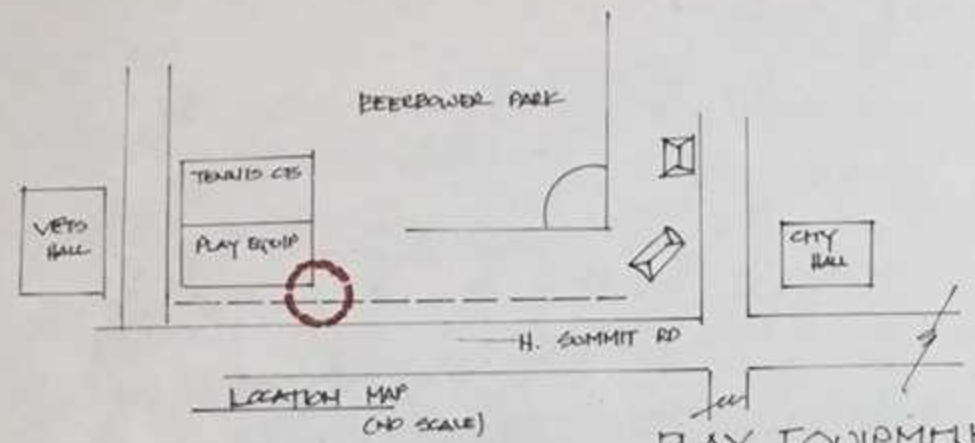
TAB - D

TAB - E

LINSEY BAUM REMEMBERANCE MEMORIAL

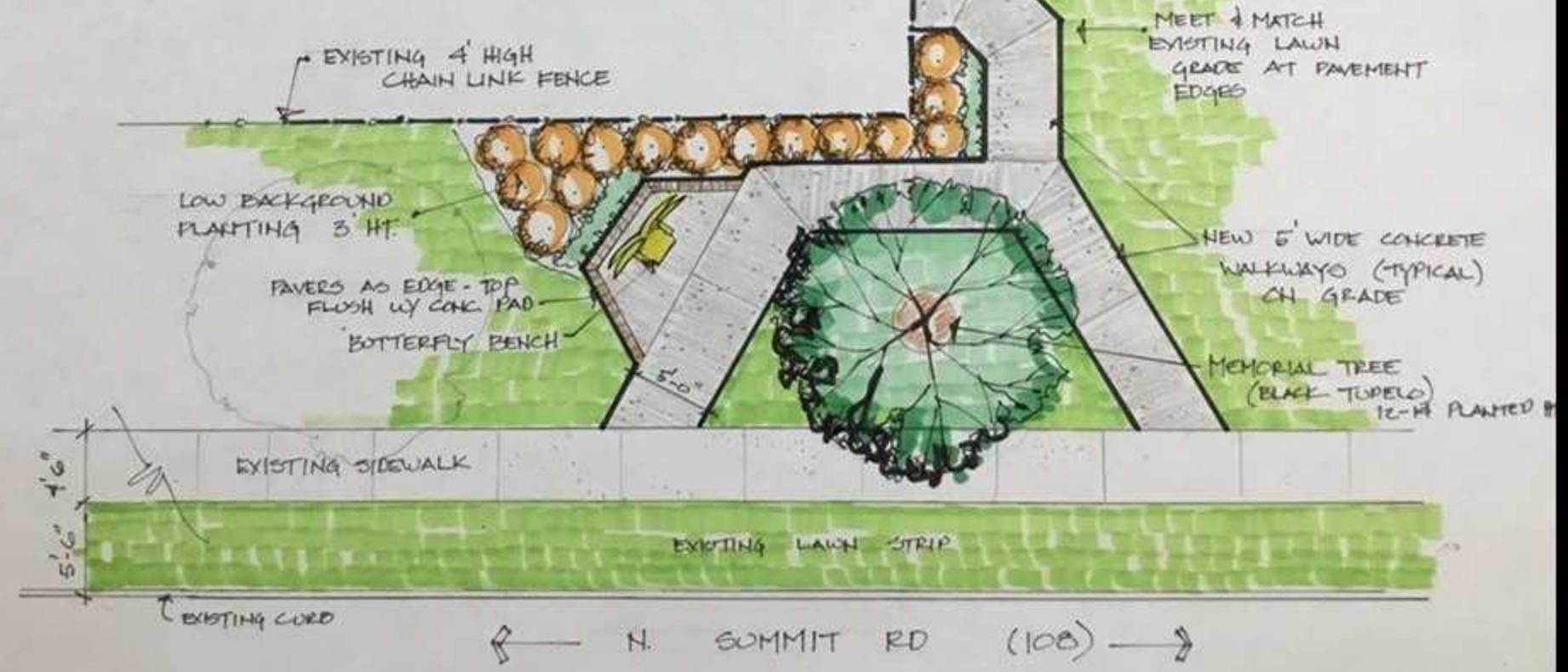
PROPOSED SITE PLAN
McCLEARY, WA.

2/6/2019



LOCATION MAP
(NO SCALE)

PLAY EQUIPMENT AREA



MEET & MATCH
EXISTING LAWN
GRADE AT PAVEMENT
EDGES

LOW BACKGROUND
PLANTING 3' HT.

PAVERS AS EDGE - TOP
FLUSH W/ CONC. PAD
BUTTERFLY BENCH

NEW 5' WIDE CONCRETE
WALKWAYS (TYPICAL)
ON GRADE

MEMORIAL TREE
(BLACK TUPELO)
12-14' PLANTED

5'-6"
5'-6"

EXISTING SIDEWALK

EXISTING LAWN STRIP

EXISTING CURB

← H. SUMMIT RD (100) →

TAB - F

STAFF REPORT

To: Mayor Orffer and Councilmember's
From: Wendy Collins, Clerk-Treasurer
Date: April 10, 2019
Re: Department of Enterprise Agreement

The Department of Enterprise provides opportunities to purchase surplus items from the State and Federal Programs. They also provide other services we utilize such as bulk mailing, staff training and using State bids for services such as janitorial services.

This is the three-year renewal, which is required to continue participation.

There is no cost in signing the agreement. Cost is incurred when we utilize a specific service such as mail services or employee training.

Action Requested:

Please authorize the Mayor to sign the Department of Enterprise Three-Year Renewal Agreement.



STATE OF WASHINGTON

DEPARTMENT OF ENTERPRISE SERVICES

7511 New Market St. SW, Olympia, WA
98504

PO Box 41030, Olympia, WA 98504

INSTRUCTIONS FOR COMPLETING ELIGIBILITY APPLICATIONS

Instructions applicable to ALL applicants: Public Law 94-519 mandates that surplus personal property be distributed in a fair and equitable manner based on the relative needs and resources of interested eligible agencies and organizations and their abilities to utilize the property. To assist the State Agency in complying with this requirement, enclose a statement with the application providing information relating to the following:

1. Source of funds, such as tax revenues, Federal or State grants, tuition or service charges, and donation or contributions (a financial statement)
2. Economic condition of the agency or organization including any extraordinary economic problems
3. Availability of funds and facilities to repair or renovate the property and maintain the property in use
4. General description of the nature and types of property needed for use in the program or activities

Instructions applicable only to certain specified applicants:

1. School, college, or university lacking evidence of formal approval or accreditation : The following type of information may be accepted in lieu thereof; a letter from a school district governing board or the State Superintendent of Public Instruction or similar authority stating that the institution meets the academic or instructional standards prescribed for public school, colleges, or universities in the State or that students will be accepted for transfer to accredited or approved institutions at the same academic level.
2. School for the mentally or physically handicapped: the application must include a copy of a certificate or other evidences that the facility meets state and local health and safety standards. Give data on length of school day, week, and year and the number and qualifications of staff
3. Educational radio or educational television station: copy of the FCC license to operate exclusively for noncommercial educational purposes must accompany the application.
4. Medical institution lacking evidence of formal approval, accreditation, or licensing: the application must include a letter from a city, county, state, or federal health authority stating that the institution is approved by that authority. A licensing authority prescribes that medical requirements and standard for the professional and technical services of that institution.
5. Private, nonprofit library: the application must include a statement from the governing body that the library services are free to all residents of the community .
6. Homeless shelters: see the attached page .

**STATE OF WASHINGTON SURPLUS OPERATIONS
APPLICATION FOR ELIGIBILITY**

I. LEGAL NAME AND MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Federal ID Number (TIN)

Name of Executive Director

E-mail Address

Telephone Number

Mailing Contact

E-mail Address

County

Mailing Address

Zip Code

II. APPLICANT STATUS:

III. TYPE OF ORGANIZATION :

IV. PROVIDE A WRITTEN DESCRIPTION OF PROGRAMS, SERVICES OFFERED, FACILITIES OPERATED AND A LIST OF MATERIALS YOU WISH TO PROCURE.

V. SOURCE OF FUNDING: (You may be asked to attach supporting documentation)

VI. HAS THE ORGANIZATION BEEN DETERMINED TO BE TAX-EXEMPT UNDER SECTION 501 OF THE INTERNAL REVENUE CODE OF 1954? IF YES CONFIRMATION LETTER FROM IRS IS REQUIRED.

VII. IS THE ORGANIZATION APPROVED, ACCREDITED OR LICENSED? IF YES, COPY IS REQUIRED. ELIGIBILITY WILL ALSO BE CONTINGENT TO LICENSE BEING CURRENT.

If YES, BY WHAT AUTHORITY?

Date

Signature of Authorized Official

*****FOR STATE AGENCY USE ONLY*****

Eligibility: [] *Eligible for Federal & State* [] *Conditionally Eligible* [] *Eligible for State ONLY* [] *Eligible for Federal ONLY*

Organization Approved As: _____ 3040: _____

Date

Surplus Program Manager

Eligibility Expires

AUTHORIZED REPRESENTATIVES

I. LEGAL NAME & MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Mailing Address

Street Address/Location (If different from mailing address)

Zip

County

Telephone Number

Federal Tax ID Number (TIN) _____

Email Address

II. THE FOLLOWING REPRESENTATIVES ARE DESIGNATED TO:

Acquire Federal Property

Acquire State Property;

By signing below each representative confirms they have read the terms and conditions involved with Federal Guidelines and agree to fulfill them. Certifying Officials must keep their lists up to date and Surplus Operations is not responsible for the actions of outdated personnel.

III. NEW DESIGNATIONS

(Delete all previous authorizations)

ADDITIONAL DESIGNATIONS ONLY

(Add to previous authorization)

IV. REPRESENTATIVES:

Name/Title

Email Address

Signature

V. CERTIFICATION

Date

Signature of Your Certifying Official

Title

Non-Discrimination Certification

LEGAL NAME & MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Mailing Address (PO Box #, Street, City & State)

Zip Code

Street Address/Location (If different from mailing address)

County

Telephone Number

Fax Number

The "Donee" hereby agrees that the program for or in connection with which any property is donated will be conducted in compliance with, and the donee will comply with and will require any other person (any legal entity) who, through contractual or other arrangements with the donee, is authorized to provide services or benefits under said program to comply with, all requirements imposed by or pursuant to the regulations of the General Services Administration (41 CFR 101-6.2) issued under the provisions of Title VI of the Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administration Services Act of 1949, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and Section 303 of the Age Discrimination Act of 1975, to the end that no person in the United States shall, on the ground of race, color, natural origin, sex or age, or that no otherwise qualified handicapped person shall solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the donee received Federal Assistance from the General Services Administration, and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

The donee further agrees that this agreement shall be subject in all respects to the provisions of said regulations, that this agreement shall obligate the donee or the period during which it retains ownership or possession of any such property, that the United States shall have the right to seek judicial enforcement of this agreement, and this agreement shall be binding upon any successor in interest of the donee and the word "donee" as used herein includes any such successor in interest.

Date

(Signature of Authorized Official)

**Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion For
Lower Tier Covered Transactions**

LEGAL NAME & MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Mailing Address (PO Box #, Street, City & State)

Zip Code

Street Address/Location (If different from mailing address)

County

Telephone Number

Fax Number

******* (Please Check One) *******

The Applicant Organization certifies, by submission of this application, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from:

Participation in this transaction by any Federal department agency

The Applicant Organization is unable to certify any of the statements in this certification and shall attach an explanation to this proposal.

Additionally, signing below certifies that the Applicant Organization must immediately notify Washington State Surplus Operations if there is any change to the status of eligibility with any Federal department agency, regardless of reason.

Date

(Signature of Authorized Official)

TERMS AND CONDITIONS

(A) THE DONEE CERTIFIES THAT:

- (1) It is a public agency or a nonprofit institution or organization exempt from taxation under Section 501 of the Internal Revenue Code of 1954 within the meaning of Section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and the regulations of the Administrator of General Services.
- (2) If a public agency, the property is needed and will be used by the recipient for carrying out or promoting for the residents of a given political area one or more public purposes, or, if a nonprofit, tax-exempt institution or organization, the property is needed for and will be used by the recipient for educational or public health purposes, including research for such purpose, or for programs for older individuals. The property not being acquired for any other use or purpose, or for sale or other distribution, or for permanent use outside the State, except with prior approval of the State Agency.
- (3) Funds are available to pay all costs and charges incident to donation.
- (4) This transaction shall be subject to the nondiscrimination regulations governing the donation of surplus personal property issued under Title VI of the Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, Title IX of the Education Amendments of 1972, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and Section 303 of the Age Discrimination Act of 1975.

(B) THE DONEE AGREES TO THE FOLLOWING FEDERAL CONDITIONS:

- (1) All types of property shall be placed in use for the purpose(s) for which acquired within one year of receipt and shall be continued in use for such purpose(s) for one year from the date the property was placed in use. In the event the property is not so placed in use, or continued in use, the donee shall immediately notify the State agency and, at the donee's expense, return such property to the State agency or otherwise make the property available for transfer or other disposal by the State agency, provided the property is still usable as determined by the State agency.
- (2) Such special handling or use limitations as are imposed by General Services Administration (GSA) on any item(s) of property listed hereon.
- (3) In the event the property is not so used or handled as required by (B) (1) and (2), title and right to the possession of such property shall at the option of GSA revert to the United States of America and upon demand the donee shall release such person as GSA or its designee shall direct.

(C) THE DONEE AGREES TO THE FOLLOWING CONDITIONS IMPOSED BY THE STATE AGENCY. APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF \$5,000 OR MORE AND PASSENGER MOTOR VEHICLES, REGARDLESS OF ACQUISITION COST, EXCEPT VESSELS 50 FEET OR MORE IN LENGTH AND AIRCRAFT.

- (1) The Property shall be used only for the purpose(s) for which acquired and for no other purpose(s).
- (2) There shall be a period of restriction which will expire after such property has been used for the purpose(s) for which acquired for a period of 18 months from the date the property is placed in use, except for such items of major equipment, listed hereon, on which the state agency designates a further period of restriction.
- (3) In the event the property is not so used as required by (C) (1) and (2) and Federal restrictions (B) (1) and (2) have expired, then the title and right to the possession of such property shall at the option of the State agency revert to the State of Washington and the donee shall release such property to such person as the State agency shall direct.

(D) THE DONEE AGREES TO THE FOLLOWING TERMS, RESERVATIONS, AND RESTRICTIONS:

- (1) From the date it received the property listed hereon, and through the period(s) of time the conditions imposed by (B) and (C) above remain in effect, the donee shall not sell, trade, lease, bail, cannibalize, encumber or otherwise dispose of such property, or remove it permanently for use outside the State, without prior approval of GSA under (B) or the State agency under (C). The proceeds from any sale, trade, loan, bailment, encumbrance, or other disposal of the property, when such action is authorized by GSA or by the State agency, shall be remitted by the donee to GSA or the State agency, as the case may be.
- (2) In the event any of the property listed hereon is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of by the donee from the date it receives the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, without the prior approval of GSA or the State agency, the donee, at the option of GSA or the State agency shall pay to GSA or the State agency, as the case may be, the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal, as determined by GSA or the State agency.
- (3) If at any time, from the date it received the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, any of the property listed hereon is no longer suitable, usable, or further needed by the donee for the purposes(s) for which acquired, the donee shall promptly to the State agency, lease the property to another donee or another State agency, department, or agency of the United States, sell or otherwise dispose of the property. The proceeds from any sale shall be remitted promptly by the donee to the State agency.
- (4) The donee shall make reports to the State agency on the use, condition, and location of the property listed hereon, and on other pertinent matters as may be required from time to time by the State agency.
- (5) At the option of the State agency, the donee may abrogate the conditions set forth in (C) and the terms, reservations, and restrictions pertinent thereto in (D) by payment of an amount as determined by the State agency.

(E) THE DONEE AGREES TO THE FOLLING CONDITIONS, APPLICABLE TO ALL ITEMS OR PROPERTY LISTED HEREON.

- (1) The property acquired by the donee is on an "as is, where is" basis, without warranty of any kind.
- (2) Where a donee carries insurance against damages to or loss of property due to fire or other hazards and where loss of or damage to donated property with unexpired terms, conditions, reservations, or restrictions occurs, the State agency will be entitled to reimbursement from the donee out of the insurance proceeds of an amount equal to the unamortized portion of the fair value of the damaged or destroyed donated items.

(F) TERMS AND CONDITIONS APPLICABLE TO THE DONATION OF AIRCRAFT AND VESSELS (50 FEET OR MORE IN LENGTH) HAVING AN ACQUISITION COST OF \$5,000 OR MORE, AND OTHER ITEMS OF PROPERTY REQUIRING SPECIAL HANDLING OR USE LIMITATIONS, REGARDLESS OF THE PURPOSE FOR WHICH ACQUIRED:

The donation shall be subject to the terms, conditions, reservations and restrictions set forth in the Conditional Transfer Document executed by the authorized donee representative.

Definitions

ACCREDITED: Approved by a recognized accrediting board/association on a regional, state or national level.

ADULT DAY CARE: A program of services provided under health leadership in an ambulatory care setting for adults who do not require 24-hour institutional care and yet, due to physical and/or mental impairment, are not capable of full-time independent living. Participants in the day care program are referred to the program by their attending physician or by some other appropriate source such as an institutional discharge planning program, a welfare agency, etc. The essential elements of a day care program are directed toward meeting the health and maintenance and restorative needs of participants.

APPROVED: Recognition and approval by the State Department of Education, State Department of Health or other appropriate authority exists for the purpose of making an accreditation. For an education institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. An educational institution or program may be considered approved if its instruction and credits are accepted by three accredited or state-approved institutions, or if it meets the academic or instructional standards prescribed for public schools in the state; i.e., the organizational entity or program is devoted primarily to approved academic, vocational (including technical or occupational) or professional study and instruction, which is operated primarily for educational purposes by a full-time staff of qualified instructor. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority. A health institution or program may be considered as approved when a state body having authority under law to establish standards and requirements for public health institutions renders approval thereto whether by accreditation procedures or licensing or such other method proscribed by state law. In the absence of an official state approving authority for a public health institution or program or educational institution or program, the awarding of research grants to the institution or organization by a recognized authority may constitute approval.

CHILD CARE CENTER: A public or nonprofit facility where educational, social, health and nutritional services are provided to children through age 14 or as prescribed by state law, and which is approved or licensed by the state or other appropriate authority as a child day care center.

CLINIC: An approved public or nonprofit facility organized and operated for the primary purpose of providing outpatient public health services.

COLLEGE: An approved or accredited public or nonprofit institution of higher learning offering organized study courses and credits leading to baccalaureate or higher degree.

ECONOMIC DEVELOPMENT: A program carried out or promoted by a public agency for public purposes which involves, directly or indirectly, efforts to improve the opportunities of a given political area for the successful establishment or expansion of industrial, commercial or agricultural plants or facilities and which otherwise assists in the creation of long term employment opportunities in the area or primarily benefits the unemployed or those with low incomes.

EDUCATIONAL INSTITUTION: An approved, accredited or licensed public or nonprofit institution, facility, entity or organization conducting educational programs.

EDUCATIONAL RADIO STATION: A radio station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes and which is public or nonprofit and tax-exempt under Section 501 of the Internal Revenue Code of 1954.

EDUCATIONAL TELEVISION STATION: A television station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes and which is public or nonprofit and tax-exempt under Section 501 of the Internal Revenue Code of 1954.

FEDERAL FINANCIAL ASSISTANCE: Aid provided by a federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance or direct appropriations, but not including direct federal cash assistance to individuals. It includes awards received directly from federal agencies or indirectly through other units of state and local government.

HEALTH CENTER: An approved public or nonprofit facility utilized by a health unit for the provision of public health services.

HOSPITAL: An approved or accredited public or nonprofit institution providing public health services primarily for inpatient medical or surgical care of the sick and injured, including related facilities such as laboratories, outpatient departments, training facilities and staff offices.

LIBRARY: A public or nonprofit facility providing library services free to all residents of a community, district, state or region.

LICENSED: Recognition and approval by the appropriate state or local authority approving institutions or programs in specialized areas. Licensing generally relates to established minimum public standards of safety, sanitation, staffing and equipment as they relate to the construction, maintenance and operation of a health or educational facility, rather than to the academic, instructional or medical standards for these institutions. Licensing may be required for educational or public health programs such as occupational training, physical or mental health rehabilitation services or nursing care. Licenses must be renewed periodically.

LOCAL GOVERNMENT: A government or administration of a locality within a state or possession of the US.

MEDICAL INSTITUTION: An approved, accredited or licensed public or nonprofit institution, facility, entity or organization the primary function of which is the furnishing of public health and medical services to the public at large or promoting public health through the conduct of research for any such purposes, experiments, training or demonstrations related to cause, prevention and methods of diagnosis and treatment of diseases and injuries. The term includes but is not limited to hospitals, clinics, alcoholic and drug abuse treatment centers, public health or treatment centers, research and health centers, geriatric centers, laboratories, medical schools, nursing schools and similar institutions. The term does not include institutions primarily engaged in domiciliary care, although a separate medical facility within such a domiciliary institution may qualify as a "medical institution".

MUSEUM: A public or private nonprofit institution which is organized on a permanent basis essentially for educational or esthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis (a minimum of 1000 hours) either free or for a nominal charge. The term "museum" includes, but is not limited to, the following institutions, if they satisfy all other provisions of federal regulations: aquariums and zoological parks, botanical gardens and arboretums, museums relating to art, history, natural history, science and technology and planetariums. An institution uses a professional staff if it employs full time at least one qualified staff member who devotes his or her time primarily to the acquisition, care or public exhibition of objects owned or used by the institution. This definition does not include any institution which exhibits objects to the public if the display or use of the objects is only incidental to the primary function of the institution.

NONPROFIT TAX-EXEMPT ACTIVITY: An institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax-exempt under the provisions of Section 501 of the Internal Revenue Code of 1954.

PROGRAM FOR OLDER INDIVIDUALS: Any state or local government agency or any nonprofit, tax-exempt activity which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Titles IV or XX of the Social Security Act, or under Titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act.

PROVIDER OF ASSISTANCE TO THE HOMELESS: A public agency or a nonprofit, tax-exempt institution or organization that operates a program which provides assistance such as food, shelter or other services directly to homeless individuals. The term "homeless individual" means an individual who lacks a fixed, regular and adequate nighttime residence, or who has a primary nighttime residence that is (1) a supervised public or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter and traditional housing for the mentally ill); (2) an institution that provides a temporary residence for individuals intended to be institutionalized; or (3) a public or private place not designed for, or ordinarily not used as a regular sleeping accommodation for human beings. For purposes of this regulation, the term does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or state law. Property acquired through the donation program by such institutions or organizations must be used primarily in their program for providing assistance to homeless individuals.

PROVIDER OF ASSISTANCE TO IMPOVERISHED FAMILIES AND INDIVIDUALS: A public or private nonprofit, tax-exempt organization whose primary function is to provide money, goods or services to families or individuals whose annual incomes are below the poverty line as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902). Providers include food banks, self-help housing groups and organizations providing services such as the following: health care; medical transportation; scholarships and tuition assistance; tutoring and literacy instruction; job training and placement; employment counseling; child care assistance; meals or other nutritional support; clothing distribution; home construction or repairs; utility or rental assistance and legal counsel.

PUBLIC AGENCY: Any state, political subdivision thereof (including any unit of local government or economic development district) or any department, agency, instrumentality thereof (including instrumentalities created by compact or other agreement between states or political subdivisions), or any Indian Tribe, band, group, pueblo or community located on a state reservation.

PUBLIC HEALTH INSTITUTION: An approved, accredited or licensed public or nonprofit institution, facility, or organization conducting a public health program such as a hospital, clinic, health center or medical institution, including research for any such program, the services of which are available to the public at large.

PUBLIC PURPOSE: A program or programs carried out by a public agency which are legally authorized in accordance with the laws of the state or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health and public safety.

PUBLIC SAFETY: A program or programs carried out or promoted by a public agency for public purposes involving directly or indirectly the protection, safety, law enforcement activities and criminal justice system of a given political area. Public safety programs may include but are not limited to those carried out by public police department, sheriff's offices, the courts, penal and correctional institutions including juvenile facilities, state and civil defense organizations, fire departments and rescue squads, including volunteer fire departments and rescue squads supported in whole or in part with public funds.

SCHOOL: A public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational or professional study and instruction which operates primarily for educational purposes on a full-time basis for a minimum school year and employs a full-time staff of qualified instructors.

SERVICE EDUCATIONAL ACTIVITY (SEA): Any educational activity designated by the Secretary of Defense as being of special interest to the armed services. The term include maritime academies; or military, naval, Air Force or Coast Guard preparatory schools; junior colleges & institutes; senior high school-hosted Junior Reserve Officer Training Corps; and nationally organized youth groups such as Boy Scouts, Girl Scouts & Little League, whose primary purpose is to offer courses of instruction devoted to the military arts and sciences.

UNIVERSITY: A public or nonprofit approved and accredited institution for instruction and study in the higher branches of learning and empowered to confer degrees in special departments or colleges.

TAB - G

Locke Systems Inc. Client Service Agreement

I. Customer Service Mission Statement:

The most valuable assets that Locke Systems can acquire are your trust and your satisfaction. We are committed to helping your organization succeed and will go out of our way to accommodate your needs wherever we can. The items outlined in this document will help you to better understand the terms and conditions that have been set forth to protect all parties involved and to help facilitate a better service offering to all of our clients.

II. Service Plan:

Customer City of McCleary has signed up for or renewed Service Plan type: **PRIORITY**, which include the services/configuration outlined in section III. Services listed in section IV (Non-Covered Items) will be negotiated separately under per-hour or fixed-bid fees. Contract Term is 1 year after which it becomes month-to-month. Based on Pricing Worksheet provided to customer, monthly price will be \$2,530 per month plus sales tax. Monthly costs may change if more servers/computers or other services are added. ~~The first month, a setup fee equal to the monthly amount will also apply~~, so first invoice amount will be \$2,752.64 (includes sales tax for McCleary 8.8%).

III. Covered Items and Services based on Current Plan and Configuration:

Coverage Start date	Mar 2019
Number of Servers (qty)	~5
Exchange/Email Services	hosted O365
SQL/Database application servers	Yes
Computers – Desktop and Notebook (qty)	~32
Number of Sites or Locations (onsite support)	1 main site
Remote Labor Hours to maintain servers, network, and computer infrastructure. Maintenance includes service, repair, and upgrade of existing equipment and infrastructure	Unlimited
Onsite Labor Hours to maintain servers, network, and computer infrastructure. Maintenance includes service, repair, and upgrade of existing equipment and infrastructure	Unlimited
Remote and/or Onsite Labor Hours for new Projects and Non-Maintenance work including major upgrades, additions, and other Projects	request quote
New Software and Hardware expenses	request quote
Service Priority Response Level	Priority
Service Priority for Urgent issues	Priority
After-Hours Incident Fees for emergency support (only to be used for urgent issues that cannot wait until morning)	Included
Reporting and Status Updates on Tickets	Priority
Complete Network Inspection/Review and Audit	Annual
Network Security Audit included	Yes
Dedicated Pre-Scheduled onsite technician days	Monthly
Asset Management – (hardware and software) including hardware inventories, software license management, and tracking vendor renewals (domain and software renewals, etc)	Included

IV. Non-Covered Items (billed separately from Service Contract):

Some types of services are available but are not included in the scope of a Maintenance Contract and will be negotiated separately. Additionally, some large Projects are typically covered under the 1st year of the contract (to get network “Up to Par”) but future upgrades and Projects may not be considered “maintenance”. Listed below are examples of services that will not fall under the scope of this contract unless otherwise noted

Premise data or phone cabling	Billed separately – request quote
Website or Database Design/Dev	Billed separately – request quote
Distributed wireless or security camera systems	Billed separately – request quote
Printer or Copier physical component svc/repair	Billed separately – request quote
Organized User Training/Classes	Billed separately – request quote
Phone Systems Troubleshooting or Administration	Billed separately – request quote

V. Definition of “Urgent Issue”:

An Urgent issue is defined as a critical network or systems outage or other issue causing or threatening a halt in all productivity. It also applies to issues impeding a critical service where deadlines may apply such as payroll on a payday.

VI. Terms of Payment:

All Service Plan charges are billed monthly by credit card or prepaid quarterly. If customer wishes to pay monthly by check, check must be received within 30 days or credit card on file will be billed automatically by the end of 30 days. Invoices will include both charges for Service Plan plus any additional monthly charges for other services (hardware, software, hosted services, non-covered labor, etc.). All hardware and software (equipment) over \$500 must be paid in advance. If an account becomes outstanding, balances will be required to be made current before additional work is performed.

VII. Warranties:

Standard computer hardware items such as hard drives and other computer parts purchased through Locke Systems will be warrantied for one year, unless otherwise stated. Locke Systems does not warranty non-stocked hardware and equipment such as servers, printers, and routers, but will assist in processing manufacturer warranties. Unless otherwise stated, hardware or equipment must be returned within 30 days of delivery, in order to be able to obtain refunds from the manufacturer.

VIII. Limitation of Liability:

- a.) Locke Systems guarantees its workmanship to client satisfaction but the ultimate responsibility of data backup is placed upon the client. Consultants will always attempt to ensure that critical data is backed up sufficiently before performing work on systems, but cannot be held responsible for data loss ultimately due to software and hardware malfunctions.

- b.) Locke Systems cannot be held responsible for service outages or project failures due to third-party configuration changes or other actions. For example, if Locke Systems installs a VPN solution and the client’s ISP changes its policies regarding VPN traffic across its network, Locke Systems will not absorb the costs of the work performed on the project. Locke Systems can, however, assist the client in finding a working solution by changing Internet Service Providers or doing whatever is necessary and within our means to facilitate. Such services may incur additional costs.

IX. Customer Privacy:

- a.) Locke Systems maintains a strict policy of confidentiality concerning client data, business methods, and client relationships. It is against policy for consultants to discuss information about other clients unless permission is explicitly obtained from the client. Such will be the case if you are ever invited to visit a client site to preview a technology solution or installed equipment.
- b.) To limit liabilities of all parties involved, Locke Systems maintains a strict policy of what kinds of customer information might be stored. All information is considered Customer Property and is securely deleted or destroyed if the working relationship is terminated or if the customer requests so for any other reason. The following are types of information that we will or will not store:
 - a. What we will store:
 - i. Administrative passwords and other password information that will enable us to administer, maintain, and repair your network and systems
 - ii. Documentation on routines, policies; instructions on gaining access via alarm codes, security logins, etc. if given to us to enable us to work after-hours
 - iii. Software vendor logins, passwords, serial numbers, and other information that will enable us to maintain and service systems
 - iv. User account and passwords are sometimes stored depending on preferences of client, and may also include or be directly tied to email accounts
 - b. What we will not store or keep:
 - i. It is our policy to not keep or record logins and passwords to customer financial databases, accounting systems, or data. We also will not take that data off of the customer site except for rare circumstances when permission is obtained from the customer in cases such as hard drive recoveries or repairs of systems housing data
 - ii. We do not under any circumstances store or record your customer credit card numbers, bank account or financial information, social security numbers, or other personally identifiable data
 - iii. We do not save, store, share, or utilize customer contacts or customer databases or contact lists
- c.) Knowledge of customer business practices, trade secrets, operating procedures, or future plans/goals is considered Customer Intellectual Properties and is not recorded or shared with any other parties.

X. Agreement to not recruit:

Under this agreement, clients are prohibited from recruiting Locke Systems technicians into technology-related employment positions or soliciting them to directly perform consulting work on contract or in any arrangement for their company outside of their role as an employee of Locke Systems Inc.

XI.: Termination of Contract:

Either party will terminate contract by providing 10 days' notice in either writing or email after which any services rendered will be performed at an out-of-contract billed by the hour basis. Minimum contract term for Unlimited Hours type contracts is 12 months after which contract automatically converts to month-to-month.

XII.: Planned Cost Increases:

Unless otherwise indicated in this Agreement, or in an attached Schedule, contracted recurring fees for IT services may increase up to 3% after each year of service.

XIII.: Developed Work and Intellectual Property Rights

Locke Systems Inc. may develop and/or utilize scripts, customized installer packages, 3rd-party management platforms, or custom-developed software to deploy, manage, and administer settings and software across the network and systems. Locke Systems retains ownership and intellectual rights to any developed or hosted items. Vendors retain ownership and intellectual rights to subscription-based tools. As such, upon termination of contract some services may be affected when such products are removed or as vendor subscriptions expire or are deactivated.

XIV.: Additional Notes/Arrangements:

Current Office 365 subscription and costs (about \$224 monthly) will be transferred to a direct account with Microsoft

Onboarding/Setup fee waived – transferring account from JD Tech (acquired Engineer)

I hereby certify that I have both read and agree to the terms set forth in this Service Agreement:

Client Name (print): _____ Signature: _____ Date: _____

Locke Systems Rep: Den Locke _____ Signature: _____ Date: 3/25/19

TAB - H

STAFF REPORT

To: Mayor Orffer
From: Todd Baun- Director of Public Works
Date: April 3, 2019
Re: STIP Amendment

At a previous council meeting, it was mentioned that we were awarded additional grant money from the Highway Infrastructure Program (HIP). We never have officially accepted the HIP funds. If we do accept the funds, we also need to amend them into our Statewide Transportation Improvement Program (STIP), prior to April 16th.

The grant amount for the HIP/Rural award is \$74,644, with a local match amount of \$11,650 for a total of \$86,294.

Action Requested:

Please accept the HIP grant funding and approve the STIP amendment that adds the HIP funding to our 3rd Street Project STIP.



Grays Harbor Council of Governments- Founded in 1960

115 S. Wooding St.
Aberdeen, WA 98520

Voice
(360) 537-4386
Internet Address
<http://www.ghcog.org>

MEMBER ENTITIES:

City of Aberdeen
City of Cosmopolis
City of Elma
City of Hoquiam
City of McCleary
City of Montesano
City of Oakville
City of Ocean Shores
City of Westport
Chehalis Tribe
Quinalt Indian Nation
Grays Harbor County
Grays Harbor PUD #1
Grays Harbor
Transportation Authority
Port of Grays Harbor
Timberland Regional
Library

November 27, 2018

Mr. Todd Baun,
Director of Public Works
City of McCleary
100 S. 3rd Street
McCleary, WA 98557

Mr. Baun,

Congratulations on your Highway Infrastructure Program (HIP) funding award. The GHCOG Council approved the HIP funding list per resolution #629. Please consider this letter as formal notification of your HIP funding award on the following project:

McCleary 3rd Street Improvements
HIP(R) award of **\$74,644**
Funding Program Year and Obligation Commitment – by **September 2021**

The total 2018 HIP funding award for the McCleary 3rd Street Improvements project is **\$74,644**.

HIP funding awards are contingent upon adhering to federal Highway Infrastructure Program (HIP) regarding eligibility, match and programming.

We are pleased to award HIP Regional funding to this project and are dedicated to assisting you with moving the project forward.

Again, congratulations and our sincere gratitude for the important work you do.

Sincerely,

Vicki Cummings

Cc: Mayor Brenda Orffer

VICKI J. CUMMINGS
Executive Director

TAB - I

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: April 3, 2019
Re: Critical Areas Ordinance (CAO) Update

In April of 2018, council voted to proceed with our CAO update. We sent the draft Ordinance to the Department of Commerce. We have recently received communication from the Department of Commerce that they have no issues with our draft Critical Area Ordinance Update. Our next step is to hold a public hearing and after the public hearing, the final draft of the ordinance would be acted upon and, if adopted, within the 10 day window following adoption a copy of the signed ordinance is sent off to the Commerce Department.

Below is more information about our CAO update.

The Growth Management Act of Washington (GMA) requires cities to periodically review and evaluate comprehensive plans and development regulations (RCW 36.70A.130). Following adoption of the Comprehensive Plan, the City's development regulations need to be updated to support the goals and policies articulated in the plan. The City's review of development regulations includes the Critical Areas Ordinance (CAO) update pursuant to state law that requires cities to designate and adopt regulations for the protection of critical areas. The City's CAO is codified in McCleary Municipal Code (MMC) Chapter 18.08.

There are five types of critical areas:

- **Aquifer recharge areas**
- **Fish and wildlife habitat conservation areas**
- **Frequently flooded areas**
- **Geologically hazardous areas**
- **Wetlands**

The City last completed a comprehensive update of its CAO in 2003.

The intent of the current update is to:

- **Revise code as necessary to comply with state requirements;**
- **Review best available science (BAS) and incorporate as needed;**
- **Update the CAO to reflect and support the Comprehensive Plan;** and
- **Improve ease of administration and clarity** for land use applicants and the general public.

Action Requested:

Please set a public hearing and review the draft CAO for any final changes.

TAB - J

STAFF REPORT

To: Mayor Orffer
From: Todd Baun, Director of Public Works
Date: April 3, 2019
Re: Home Abatement Discussion

8.16.216 Abatement by city.

In the absence of any other provision of Chapter 8.16 or other provisions of the Municipal Code governing the matters set forth below, including an order of abatement having been issued pursuant to a different provision of Chapter 8.16, the following provisions shall apply:

A. In all cases where the city has determined to proceed with abatement, after giving the required notifications and having obtained any necessary court order, the city shall acquire jurisdiction to abate the condition at the person's expense as provided in this chapter. Upon the abatement of the condition or any portion thereof by the city, all the expenses thereof shall constitute a civil debt owing to the city jointly and severally by such persons who have been given notice as provided in this chapter. The debt shall be collectible in the same manner as any other civil debt owing to the city. It shall become a lien against the property and may be collected in such manner as provided in this chapter.

B. The enforcement officer shall order the necessary work to be done, including the boarding up of openings and/or the fencing of premises, to render such structure/premises temporarily safe and shall cause such other action to be taken as the enforcement officer deems reasonably necessary to abate such nuisance.

C. For the purposes of this code, the enforcement officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

D. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule;

Re-inspection fees may be assessed if work is incomplete, corrections not completed or the allotted time is depleted. All City of McCleary fees shall be established by the City of McCleary Development fee schedule. Fees will be assessed at the hourly charge in minimum fifteen minute increments.

E. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or structure for the recovery of such costs pursuant to this chapter.

(Ord. No. 832, § 21, 7-12-2017)

TAB - K

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.

R E C I T A L S:

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: an area with a critical recharging effect on an aquifer that is vulnerable to contamination and is used as a sole source of potable water supply. Aquifer recharge areas are those areas designated pursuant to:

- a. The Federal Safe Drinking Water Act;
- b. Regulation of Public Ground Waters, Chapter 90.44 RCW;
- c. Water Pollution Control, Chapter 90.48 RCW;
- d. Water Resources Act, Chapter 90.54 RCW;
- e. Groundwater Management Areas, Chapter 173-100 WAC; and
- f. Water Quality Standards for Groundwater, Chapter 173-200 WAC.

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;
- 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.

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 City 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~~F. Site investigation work necessary for land use applications; and

HG. (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 City Code shall indicate whether any critical area is located on 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: Alkali	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 potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
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 150 ft of wetland · Apply integrated pest management
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 · Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)
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

Disturbance	Required Measures to Minimize Impacts
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 using vegetation appropriate for the ecoregion; · Place wetland and its buffer in a separate tract or protect with a conservation easement
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	6-7	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 ¾ 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.

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 of acceptance of the completed application.

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

