



McCleary City Council Agenda

4/11/18- 6:30PM

Flag Salute

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

Presentation	<input type="checkbox"/>
Exutive Session	<input type="checkbox"/>
Mayor Comments	<input type="checkbox"/>
Public Comment	<input type="checkbox"/>
Minutes	<input type="checkbox"/>
Approval of Vouchers	<input type="checkbox"/>

Port of Grays Harbor

Tab

A March 28th & April 4th Meeting

Staff Reports	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

Tab

B Dan Glenn

Tab

C Todd Report

Tab

D Staff Reports

Old Business	<input type="checkbox"/>
	<input type="checkbox"/>

Tab

E Manufactured Home issue referral date

Tab

F Critial Area Ordinance Update

New Business	<input type="checkbox"/>
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Tab

G Thurston PUD Wells discussion

Ordinances	<input type="checkbox"/>
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Resolutions	<input type="checkbox"/>
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Mayor/Council Comments	<input type="checkbox"/>
Public Comments	<input type="checkbox"/>
Executive Session	<input type="checkbox"/>
Adjourn/Recess Meeting	<input type="checkbox"/>
Previously Tabled Items	<input type="checkbox"/>

Developer incentives, TBD

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 28, 2018**

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

ABSENT None.

STAFF PRESENT Present at the meeting were Director of Public Works Todd Baun, Clerk-Treasurer Wendy Collins, Police Chief Steve Blumer, and Attorney's Dan Glenn and Sharon English.

PUBLIC HEARING None.

EXECUTIVE SESSION None.

VOUCHERS Accounts Payable checks approved were 44131- 44175 including EFT's in the amount of \$205,122.07.

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

MINUTES APPROVED **It was moved by Councilmember Iversen, seconded by Councilmember Huff to approve the minutes from the meeting held on March 14, 2018. Motion Carried 5-0.**

PUBLIC COMMENTS Karen Kienenberger announced the Historical Society is having a fund raiser this weekend and invited everyone to attend.

MAYOR COMMENTS Mayor Schiller reported there are two upcoming meetings for the Steering Committee. April 17 will be the next regular Steering Committee meeting and April 30th will be a Town Hall meeting that will be held at the McCleary School. Brian Cole will be attending the Town Hall meeting to help with the presentation and to address questions about the Comprehensive Plan.

Mayor Schiller asked the Council to agree to recess the meeting, instead of adjourning, so they can reconvene on April 4th to discuss labor negotiations with Scott Snyder.

CITY ATTORNEY REPORT Dan Glenn provided a written report for the Council.

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

HAZARD MITIGATION PLAN UPDATE Todd Baun gave a presentation on the Hazard Mitigation Plan.

FINAL ECONOMIC COMPREHENSIVE PLAN **It was moved by Councilmember Orffer, seconded by Councilmember Huff to adopt the Final Economic Development Comprehensive Plan. Motion Carried 5-0.**

MANUFACTURED HOME ISSUE POSSIBLE REFERAL Todd prefers this new K version over the other drafts. Councilmember Iversen asked what language would be used for the blanks on page 11 and Todd said it would refer back to the codes for the specific language. The Council reviewed draft version K. They are ready for it to go to the Hearing Examiner. **It was moved by Councilmember Orffer, seconded by Councilmember Iversen to refer version K of the Manufactured Home Ordinance to the Hearing Examiner. Motion Carried 5-0.**

ORDINANCE 840, REPEAL OF CITY COUNCIL SALARY ORDINANCE 517 SS1,2 Councilmember Blankenship notified Dan Glenn that there are two ordinances that address the same subject. To reduce confusion, Dan has prepared an ordinance for Council's consideration. **It was moved by Councilmember Orffer, seconded by Councilmember Iversen to adopt Ordinance 840 AN ORDINANCE RELATING TO SALARIES; REPEALING SECTION 2.08.030, MMC, AND ORDINANCE 517, SECTIONS 1 AND 2; PROVIDING FOR AN EFFECTIVE DATE AND CORRECTION. Roll call taken in the affirmative. Ordinance Adopted 5-0.**

SKILLINGS CONNOLLY CONTRACT TIME EXTENSION **It was moved by Councilmember Iversen, seconded by Councilmember Blankenship to authorize the Mayor to sign the time extension for Skillings Connolly, Inc. Motion Carried 5-0.**

STEERING COMMITTEE
PROGRESS UPDATE Steering Committee member, Chantol Sego, came up with a slogan for McCleary and updated the City logo. Mayor Schiller would like to adopt it as the official City logo and slogan. He asked the Council to consider it and he will bring it up at a future meeting.

Chantol Sego is working with Dee Velasco, Chamber of Commerce President, and Dee is willing to run t-shirt sales and smaller events through the Chamber. She also has planned two movie nights in the park and farmers markets for the summer months. She has been working tirelessly on events and ideas to help implement the Comprehensive Plan.

Doug Krikava, Steering Committee member, wants to start working with the ORV Park and try to get them to support people attending events to come to McCleary for services. He wants to see a trail connection to get to McCleary from the ORV Park. He would like to see someone be the leader of the group working on connectivity and partnership to be a paid position because the Steering Committee members mostly have full time jobs and do not have the time to commit to what needs to be done. They need someone to take that leadership role.

PUBLIC COMMENT Mayor Schiller is continuing to work on lowering the speed limit on Mox Chehalis to 35 mph.

EXECUTIVE SESSION None.

MEETING RECESS **It was moved by Councilmember Orffer, seconded by Councilmember Iversen to RECESS the meeting at 7:39 pm. The next meeting will be Wednesday, April 4, 2018 at 6:30 pm. Motion Carried 5-0.**

**CITY OF MCCLEARY
March 28, 2018 Regular City Council Meeting
Continued on Wednesday, April 4, 2018**

ROLL CALL Councilmembers Orffer, Huff, Heller, Blankenship and Iversen were in attendance.

ABSENT None.

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

TAB - B

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: April 10, 2018
RE: LEGAL ACTIVITIES as of APRIL 11, 2018

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure. It is coming to you late due to my inefficiency and my enjoying some time out of the office.

1. **CRITICAL AREAS ORDINANCE:** This ordinance has been in the works for an extended period of time. It is a periodic update required by the statutory provisions governing the matter. As has been referenced in prior reports, the current draft has been developed with the assistance of and consultations with the relevant staff at the Department of Ecology, Ms. Bunton and Mr.. Mraz. It was very helpful to have their assistance.

As background and for informational purposes, I am attaching to this Report an article written by Dr. Greg Wessel, a geologist. As you will note from reading the article, the identification of critical areas and the governing of utilization of the areas ties into the concept of the Hazard Mitigation Plan currently under development and discussed by Todd at a recent meeting.

At this stage in the process, I am uncertain as to the extent the Council has had the opportunity to review the draft for purposes of seeking any information before going forward with formal consideration. I recognize that three of the Council's Members have assumed their positions since the development of the draft was commenced. Thus, I do not know if you wish to have a workshop on this matter before taking the next formal steps leading to adoption.

As to the "final" steps, even though Grays Harbor County is not a Growth Management County for most purposes, they will be as follows:

A. The Council would be to authorize the forwarding of the draft to the Commerce Department for its review. The Department has 60 days to comment on the draft which in the past for other cities, has not infrequently included suggestions.

B. Upon receipt of the Department's response, which hopefully will be a positive one, the Council would authorize a public hearing. The goal of that hearing would be to insure that the members of the public, whether residents or owners of affected properties, will have the opportunity to express their positions before final consideration for adoption of the ordinance.

C. 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.

2. **HAZARD MITIGATION PLAN:** As Todd noted during his presentation, this process has been moving ahead for several years. It will be completed not too long down the proverbial path. At this stage, to avoid a last minute issue, I do have a query in to Mr. Wallace, the County's Emergency Services Department official working with the Cities on the development of the Plan, as to the extent to which a formal environmental review will be necessary. However, the positive news is that we have adequate time to carry out this task if it is required.

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

DG/le

Critical Areas: The Importance (and Difficulty) of Knowing Where They Are

July 18, 2017 by [Greg Wessel](#)
Category: [Critical Areas](#)



For roughly 30 years, development near critical areas (also known as sensitive areas) in Washington State has been governed by the Growth Management Act. Enacted in 1990, the act requires local governments to manage growth in part by identifying and protecting critical areas. Following the Oso landslide in 2014, interest in critical areas, and especially landslide hazards, peaked as many cities, counties, and even states discovered that they didn't know as much about these areas as they should.

What are critical areas?

Regulated critical areas vary from place to place but those that are most common include wetlands, streams, lakes, the marine shoreline, steep slopes, and erosion hazards. Landslide hazard areas, seismic hazards (soils prone to liquefaction), and flooding hazards are common as well. Volcanic hazards associated with our Cascade volcanoes are also regulated and some jurisdictions host hazards resulting from past coal mining.

In other parts of the country, regulated hazards include natural concentrations of hazardous materials, such as asbestos, that occur naturally in some soils. Soil contamination from human activities (think of the ASARCO smelter contamination in Tacoma) may be regulated but is typically not classified as a critical area.

Development regulations are strict when it comes to many critical areas. In some, new construction is not allowed. For others, proper characterization of the hazard present defines the mitigation that might be required to prevent loss of life and minimize environmental damage. For this reason, regulatory agencies have a huge interest in knowing where critical areas are located.

How can I know where critical areas may be located in my jurisdiction?

In most parts of Washington, the regulation of critical areas preceded in-depth knowledge of their actual locations. The importance of critical areas was recognized even though we lacked the tools to adequately map and survey them. Because of that, most building/zoning codes require critical areas to be delineated prior to the issuance of permits.

To assist planning and development, some cities and counties have mounted efforts to map selected critical areas on a landscape scale. For the most part, these maps are not recent and some have been made obsolete with the recent availability of LiDAR data.

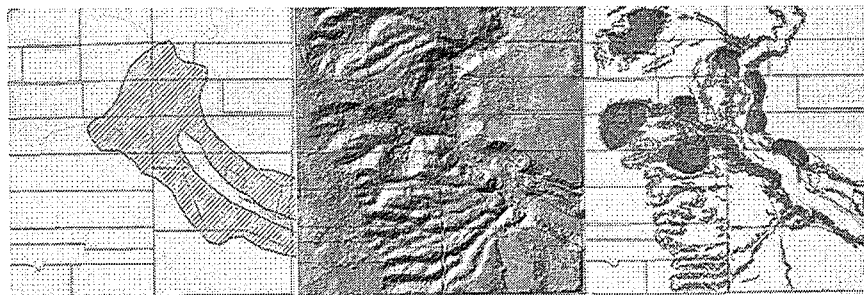
Short for Light Detection And Ranging, LiDAR is an airborne scanner that measures surface elevation using a pulsed laser. It is capable of providing detailed topographic information that can be used to map many things, including some critical areas. For example, King, Pierce, Skamania and Klickitat counties all have acquired new landslide hazard maps for portions of their territories using LiDAR data. Mapping critical areas in this fashion is not trivial, but depending on the local geology and the size of the area, acquiring good information may be easier than you might think.

The value of accurate critical areas data

A good example of the value of updating critical areas mapping can be seen in a comparison of landslide hazards taken from King County's Sensitive Areas Folio of 1990, which was used for 26 years to screen permit applications, alongside landslide hazard mapping that was completed in 2016 using LiDAR data.

The area depicted below is a portion of Vashon Island, roughly .5 mile square, as shown on two different landslide hazard maps. The one on the left is from 1990 and the one on the right is from 2016. Between the two maps is LiDAR shaded-relief topography of that same .5 mile area on Vashon Island.

The map on the left shows what was considered a landslide hazard area (green diagonals) in 1990. Using data provided in the LiDAR shaded-relief topography image, the map on the right (2016) provides more detailed information, such as steep slope



critical areas (dark green) and potential landslide hazards (purple), giving a much clearer picture of the dangers present.

The problems that might arise from relying upon out-of-date or inaccurate mapping of critical areas should be obvious. In the best case, confusion can lead to extra cost and delay; in the worst

case, hazards might go unrecognized.

Consider the case where a permit applicant might apply to build his home in that same .5 mile square of Vashon Island as the maps depict, but on a lot located within the left corner. Depending on which map the permit office uses, the decision to approve or not approve the permit might be quite different. In the 1990 version, the upper left corner seems entirely free of hazards while the 2016 version paints a very different story. There can be significant liability in relying on inaccurate data.

What should I do in my jurisdiction?

If you are wondering whether the critical areas in your jurisdiction have been adequately identified, inquire first with staff in the building or with your planning department. Many have ecologists on staff and some have geologists as well. If the information they rely upon is not recent, or if no one is sure, the next step might be to have a consultant assess the situation. The consultant should have knowledge of the regulatory use of critical areas data and should be experienced in construction and land use. An assessment can be completed quickly with the proper consultant.

If new critical areas mapping is needed you may need to assemble qualified staff or consultants. Few people have experience mapping hazards and critical areas but outside resources can be tapped. For example, geologists at the Washington Geological Survey (WA-DNR) are engaged in a program of mapping landslide hazards for some portions of the state. If you are in one of those areas, your problem may have been solved. There are also opportunities to improve the collection of critical areas data simply by revising your permit review process or by relying upon help from interns or students at nearby universities.

Critical areas data should be assessed on an ongoing basis with updates scheduled at regular intervals, perhaps every 5-10 years. A small investment now can save a lot of headaches in the future.

Questions? Comments?

If you have questions about this topic or other local government issues, please use our [Ask MRSC form](#) or call us at **(206) 625-1300** or **(800) 933-6772**. If you have questions or comments about this blog post, please email G_eg Wessel.



About Greg Wessel

Gregory R. Wessel, PhD, LG holds degrees in Geology from Colorado School of Mines (PhD) and the University of Missouri-Rolla (BSc and MSc; now called the Missouri University of Science and Technology). Dr. Wessel is licensed in the State of Washington as an Engineering Geologist and has over 35 years of experience in metals and industrial minerals exploration, geologic hazard abatement and environmental restoration, geotechnical applications and mapping of geologic hazards, the development of agricultural minerals (sulfur and potash) in Texas, Poland, Ukraine, and Russia, and the recovery of magnesium salts (for metal production) in Russia.

He has specialized in geologic mapping and structural evaluations, and has mapped large areas of the southwestern United States and the Altiplano of Bolivia, using aerial photography and extensive field work.

Dr. Wessel has authored or co-authored over 20 articles and abstracts, including a number of maps available from the Washington Geological Survey, the Texas Bureau of Economic Geology, and a widely used educational chart available from the Geological Society of America entitled The Geology of Plate Tectonics. Dr. Wessel also serves on the Mapping Advisory Committee for the Washington Geological Survey and sits on the State's Geologist Licensing Board.

[VIEW ALL POSTS BY GREG WESSEL](#) 0

TAB - C

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: April 10, 2018
Re: Current Non-Agenda Activity

City Wide Clean-Up

The City wide clean-up has been scheduled for April 28th, from 8 am to 1 pm.

TAB - D

TAB - E

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: April 10, 2018
Re: Manufactured Home issue referral date

The Hearing Examiner has set a hearing date of May 1st at 1:30 PM, at McCleary City Hall for the Manufactured Home changes proposed in version K-5.

TAB - F

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: April 4, 2018
Re: Critical Areas Ordinance (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:

If council chooses to move forward with this draft, we will have to have a public hearing scheduled in order to receive comments from the effected public. Any meeting in May (9th or 23rd) or June (13th or 27th) will be acceptable for the public hearing.

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 1: 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 18.08.055 and Section 4, Ordinance 703, are each amended to read as follows:

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

- A. Conservation, enhancement, restoration, or preservation measures or projects;
- B. Low intensity, passive recreational uses;
- C. Short-term scientific studies and educational uses;

D. Repair and maintenance of existing public roads, bridges, and storm water facilities;

E. Walkways (~~(without structures)~~) and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.;

F. Public parks;

G. Site investigation work necessary for land use applications; and

H. (~~(Forest practices governed by RCW 76.09)~~) The growing and harvesting of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974, as amended, and regulations adopted pursuant thereto; including, but not limited to, road construction and maintenance; aerial operations; applications of fertilizers and pesticides; helispots; and other uses specific to growing and harvesting timber forest products and management activities, except those Forest Practices designated as "Class IV - General Forest Practices" under the authority of the "Washington State Forest Practices Act Rules and Regulations", WAC Chapter 222, as now existing or hereafter amended or succeeded.

SECTION III: A new section shall be added to Chapter 18.08 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 IV: A new section shall be created in Chapter 18.08 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 V: 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 VI: A new section shall be added to Chapter 18.08 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 VII: 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 VIII: 18.08.040 and Section 3, Ordinance 703 are 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 IX: Section 18.08.050 and Section 4, Ordinance 703 are amended to read as follows:

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

1. Conservation, enhancement, restoration, or preservation measures or projects.

2. Low intensity, passive recreational uses.

3. Short-term scientific studies and educational uses.

4. Repair and maintenance of existing public roads, bridges, and storm water facilities.

5. 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 upon approval of the Director.

6. (~~((Public parks. 7.))~~) Site investigation work necessary for land use applications. (~~(and)~~)

(~~(8)~~). ~~Forest practices governed by RCW 76.09)~~

7. 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": 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 X: 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 XI: 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

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I:	75	90	120	150

Based on total score				
Category I: Forested	75	90	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	90	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	A. Direct lights away from wetland
Noise	B. Locate activity that generates noise away from wetland C. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source D. 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 $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

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

I. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State—Part 2: Developing Mitigation Plans—Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006, or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

J. Mitigation ratios shall be consistent with the following table. Mitigation requirements may also be determined using the credit/debit tool described in

Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011, Olympia, Washington, March 2012, or as revised) consistent with subsection H of this Chapter.

K. Wetland Mitigation Ratios:

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

L. A qualified expert shall prepare any wetland technical assessments required by the city. The report shall include:

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

SECTION XII: Section 18.08.110 and Section 11, Ordinance 703 are each emended 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 XIII: A new section shall be added to Chapter 18.08 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 XIV: There shall be added to Chapter 18.08 a new section 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 XV: 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 XVI: 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 XVII: 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 _____, 2017,
by the City Council of the City of McCleary, and signed in approval therewith this
_____ day of _____, 2017.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

TAB - G



**Public Utility District No. 1
of Thurston County**

Commissioners

Linda Oosteman – District 1
Russell E. Olsen – District 2
Chris Stearns – District 3

March 30, 2018

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

Subject: Proposed Transfer of Water Systems from PUD No. 1 of Thurston County to the City of McCleary

Mayor Schiller,

In 2012 and a couple of years ago, Thurston PUD and the City of McCleary discussed an arrangement where the City would purchase the water systems Thurston PUD owns near the City. Our PUD operates in six counties, and the Commissioners want to simplify and refocus our strategic planning and vision in fewer counties. The PUD was required to purchase four systems near the City of McCleary when we purchased 153 water systems from American Water Resources in 2005. We are a municipal corporation and are committed to working for the best interests of citizens of our State with other municipal corporations, cities and counties wherever possible. The PUD has made a decision to sell the water systems we own in Grays Harbor County that are near the City of McCleary. Based on our prior discussions and relationship, the PUD desires to give the City the first chance to purchase the water systems. If the City chooses not to purchase these systems, Thurston PUD will explore surplus them and selling them to another private or public party at the earliest possible time. Accordingly, we would like a decision from the City no later than April 30, 2018.

While details would need to be further considered and negotiated, I believe the PUD Commissioners would be receptive to considering carrying a contract for several years to make it possible for you to control and own these water systems near you and access to the water in your aquifer. Pertinent facts about the systems are below.

System Facts:

- 1) Four Water Systems in McCleary's Backyard
 - i) Systems and Connections: 4 systems with a total of 37 connections
 - Pit, Class A system, 16 connections
 - Helsep, Class B system, 9 connections
 - Olin, Class B system, 8 connections
 - Sky Acres, Class B system, 4 connections
 - ii) Water Rights Use and Availability: Pit and Sky Acres have **certificated water rights**. Based on these certificates, up to 40.75 acre feet (af) of additional inchoate water may be available for other and future uses.
 - Pit - water rights certificate G2-25719 Qi 60 gpm, Qa 16 af; estimated use is 4.25 af leaving a balance of 12.75 af inchoate water that may available for other uses.

1230 Ruddell Road SE, Lacey, Washington 98503
(866) 357-8783 • Fax (360) 357-1172 • www.thurstonpud.org

- Sky Acres - has water rights certificate, G2-26032C, Qi 65 gpm and Qa 30 af. Estimate using less than 2 af, leaving 28 af inchoate water that may be available for other and future uses.
- Together under the certificated water rights, there is up to 40.75 af of certificated water rights that could be made available for other uses. By way of example, at the standard rate of four homes per af, this could equate to water available to serve an additional 163 homes.

2) Financial Analysis:

i) Revenues:

- Water Rates: City's estimated annual water rate revenue (2018 Out of City Rates) is **\$46,975**.
- Water Rights Additional Value: The 40.75 af of water have a range of value from \$2,000 an acre foot to \$5,000 an acre foot (\$81,500 - \$203,750). Owning them could provide increased flexibility and allow you to ensure growth is managed in a way that is acceptable to the City.
- Potential Connection Fees [General Facilities Charge (GFC)] Revenue: Water rights will allow the potential of an additional 163 more homes to be served.
 - The potential GFC revenue for the City of McCleary is **\$636,678** (**\$3,906** per residential connection fee (GFC) at 2018 connection fee rates).

Proposal and Terms of Sale: The PUD is willing now to entertain discussions to enter into a contract to sell you these water systems, with their associated water rights, subject to applicable law and Board approvals, under the following general terms:

- i) Transfer control of the water systems to the City of McCleary with no down payment. The City would immediately have the right to begin receiving the revenue from the current customers.
- ii) Payments of _____ for the next five years (2019 - 2023).

The general terms and conditions as outlined above, are subject to approval by the Thurston PUD Board of Commissioners in a purchase and sale agreement.

Let me know if this is agreeable to the City. If you would like us to meet with you and your legal counsel, we would be willing to do so. We are committed to working and collaborating with you on this transfer of the water systems to the City if it would be a worthwhile acquisition for you.

Respectfully,



John Weidenfeller
General Manager