



McCleary City Council Agenda

September 27th , 2017 6:30 PM

Flag Salute

Roll Call: ___ Pos. 1- Orffer, ___ Pos. 2-Richey , ___ Pos. 3- Peterson, ___ Pos. 4- Blankenship, ___ Pos. 5- Ator

Public Hearings

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Revenue Sources
Propety Tax Levy

Mayor Comments

Public Comment

Executive Session

Union Negotiations

Minutes

Tab A September 13, 2017 Minutes

Approval of Vouchers

Staff Reports

<input type="checkbox"/>
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Tab B Dan Glenn
Tab C Todd Report

Old Business

<input type="checkbox"/>
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Tab D Fireworks
Tab E Development Incentives
Tab F Gray Harbor County All Hazard Mitigation Plan Update

New Business

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

Tab G 2018 Budget Revenues
Tab H Grays Harbor County Interlocal Agreement

Ordinances

<input type="checkbox"/>
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Tab I Tax Levy Ordinance - Introduction
Tab J Fireworks Ordinance- Draft

Resolutions

Mayor/Council Comments

Public Comments

Executive Session

Adjournment or Recess Meeting

Previously Tabled Items

CAO Update

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

Mayor Pro Tem Orffer stated there is more to the budget this year. There is a tax revenue from the County that is specifically for police and law enforcement. We also have additional funds coming in from higher tax revenues, sales and retail tax revenues and the police department had a significant change in its budget when a former police officer passed away. There are a lot of things that play into the budget besides one specific transfer that happened several years ago. Gary Atkins said he is pushing for the levy but hears from people telling him that all they do is give and wonder when they will get something back. He thinks the City should put something in the paper that gives a breakdown of how we got the money we have now. Mayor Pro Tem Orffer assured the public they are no longer transferring money from light and power and they are working with the current expense budget that they have. She added, with regard to giving back to the community, this Council stood very firm last year and did not increase the rates to the recommended 15%, 12% and 8%. They instead went with a 1.5% increase. They are doing their best to make sure the community knows their efforts. Even with the Levy, they approached the REED Fund Committee for funds so they did not have to ask for so much from the community in the levy. From the Council's perspective, they can only answer to what they do and cannot speak to the past actions of past Councils.

CITY ATTORNEY REPORT

Dan Glenn provided a written report for the Council.

DIRECTOR OF PUBLIC WORKS
REPORT

The City sent out a notice in the utility bills informing residents about the upcoming BPA generated system-wide power outage. It has also been in the Vidette and posted at the library and post office.

POLICE CHIEF REPORT

Chief Blumer stated there should be a decrease in traffic stops as we move forward. The officers have been working hard at traffic enforcement. Also, decreasing should be warrant arrests and disorderly conducts. The more times they arrest these people, they are slowly moving out of McCleary. He added, what will increase, is code enforcement since the Council adopted the different code with an enforcement action added. Paul Morrison is the Code Enforcement Officer and Chief Blumer has been directing him constantly to take care of a lot of code violations and Paul has been proactive in dealing with them under the Chief's direction. They have been able to target certain areas since they now have authorized enforcement action

Joy Iverson asked what type of code issues they've been dealing with and Chief Blumer said they are responding to dog complaints, illegal parking, abandoned vehicles and other nuisance violations. Paul Morrison can write tickets because he has a limited commission through the police department. He now has the enforcement authority to write tickets only on code violations.

Mayor Pro Tem Orffer noticed there was only one noise complaint and asked if things have improved with the VFW Hall. Sue Portschey said they have not had a band, which is what causes the noise issues. Chief Blumer, Mayor Schiller and Todd Baun met with the person that oversees the VFW Halls in the area about the noise issue. The VFW representative informed the City they have updated their contracts to address the noise issue. Chief Blumer said he was very blunt and told them he got yelled at and chewed out at a Council meeting and he said it is not going to happen again because he will be targeting the VFW next time to handle it. He said the VFW is now making an effort at correcting the noise issue.

Mayor Pro Tem Orffer asked Todd Baun if there are any new building permits and he said they've had numerous new home permits that have come in and they also have a building site plan and a conditional use permit that came in from Great Rivers for the Mark Reed site, which is on the agenda tonight to schedule a public hearing.

JANITORIAL CONTRACT

Mayor Pro Tem stated Todd, Wendy and staff have been working over the past few months to find a janitorial service. The original RFP did not provide acceptable options so they went to the State Pool for RFP's and they found one they wish to move forward on. The contract is very long. City staff has been filling in and cleaning in the interim and is asking Council to take action to authorize them to proceed with the contract. **It was moved by Councilmember Aton, seconded by Councilmember Richey to authorize the Mayor to sign the janitorial contract with P.G. Clean Janitorial of Washington for \$1,051.15 per month. Motion Carried 4-0.**

DEVELOPMENT INCENTIVES

Tabled.

GRAYS HARBOR PW MUTUAL AID AGREEMENT	This agreement allows signatory agencies to support each other during disasters and emergencies to protect life and property when an event is beyond the capabilities of the affected entity. It provides the mechanism for an immediate response to the requesting agency provided the responding agency has the necessary resources and expertise available. It was moved by Councilmember Ator, seconded by Councilmember Richey to authorize the Mayor, or appropriate staff, to sign the Grays Harbor Public Works Mutual Aid Agreement. Motion Carried 4-0.
CONDITIONAL USE HEARING	Todd Baun received a conditional use permit from Great Rivers Behavioral Health Organization. He will be moving forward on all the required steps that are necessary.
FIREWORKS	<p>Council has received some comments over the past few weeks, including some from last year, regarding fireworks. Currently, McCleary follows the State's fireworks regulations. If Council makes any changes that are more restrictive than state law, the ordinance may not take effect until at least one year after adoption. Conversation took place regarding banning illegal fireworks, to shortening the days of allowing them to be let off. Enforcement is a big problem because it is very difficult to locate who is letting them off by the time an officer arrives to respond to the complaint. Dan Glenn added that Oakville is considering abolishing fireworks because they caused a serious fire that destroyed a structure in the middle of town, which was caused by a firework landing on the roof.</p> <p>Gary Atkins believes all fireworks should be banned, which will make finding who did it easier. He said a lot of areas are banning them. An option is to have a designated area for fireworks or have a community display. Mayor Pro Tem Orffer said she understands Mr. Atkins passion about banning them, however, there are people that are just as passionate about participating in them. They enjoy the celebration of letting them off while enjoying the holiday. Councilmember Richey is not at all supportive of banning fireworks completely. Mayor Pro Tem Orffer believes there are areas to be discussed in shortening the days of allowing them to be let off in the City. She suggested Todd Baun sit down with Chief Blumer to discuss what type of reasonable enforcement it would require.</p>
COASTAL COMMUNITY ACTION PROGRAM (CCAP)	This is an annual agreement, which offers financial assistance for low income residents. There is no monetary impact to the City. It was moved by Councilmember Richey, seconded by Councilmember Peterson to authorize the Mayor to sign the Coastal Community Action Program Agreement. Motion Carried 4-0.
PUBLIC COMMENT	None.
EXECUTIVE SESSION	None.
MEETING ADJOURNED	It was moved by Councilmember Ator, seconded by Councilmember Richey to adjourn the meeting at 7:07 pm. The next meeting will be Wednesday, September 27, 2017 at 6:30 pm. Motion Carried 4-0.

TAB - B

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: September 21, 2017
RE: LEGAL ACTIVITIES as of SEPTEMBER 27, 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.

1. **CRITICAL AREAS ORDINANCE**: Finalization is getting closer. As you are aware, the goal is to make certain that the document adopted by the City is in compliance with the statutory requirements. The most recent draft I have prepared and submitted to the very helpful folks at DOE has been returned with a couple more suggestions. So, my anticipation is that I will be able to provide a final draft to you for your review and consideration at the next meeting or, if not lucky, the second meeting in October.

2. **REAL ESTATE TAX LEVY ESTABLISHMENT A/K/A AD VALOREM**: Well, it is the time of year to commence the public involvement in the development of the budget for 2018.

As required by law, Ms. Collins has given notice of the public hearing on the matter of the tax level to be imposed upon real property located within the City. She has not yet been provided the information from the Assessor's Office as to the actual figures with which we should work. The calculation of the allowed figure is always something which requires the utilization of aspirin during the process.

From the attorney's legal standpoint, the following are the basic guidelines:

A. Under the provisions of RCW 84.55.0101, the maximum amount by which it may be increased over that imposed/collected in the "prior" year a/k/a 2016 is 1 percent, not taking into

consideration any result from the addition of values tied to new construction, annexations, etc. That authority was exercised last year. Last year we were provided information upon which a "relevy" action was taken. Wendy likely has an estimate as to the amount of moneys the City has received in real estate tax revenue.

In any event, the calculations are still going on. Thus the draft ordinance I have provided is basically blank since no figures have been provided. However, I have asked Wendy to give the Assessor's Office a call and hopefully by the time of the meeting we will be able to fill in some of the blanks. As you will note, as usual the draft seeks to make clear if the ultimate figures determined to be applicable provides for a higher amount within that 1 percent limit, that is the amount to be applied. (I would note that, even though the building sought to be occupied by BHO will have had a significant amount of funds expended on improvement, if the Conditional Use application is approved, there will be no additional real estate tax revenue received by the City. Why? There continues to be a tax exemption making property owned by a hospital district exempt from such taxation even when leased to a private entity.)

B. As to adoption of the ordinance, really it is not subject to adoption this evening. When you do take action upon it, under the provisions of the applicable statute, adoption will require the affirmative vote of four of you since the statute requires that "...a majority plus one must approve..."

3. **FIREWORKS ISSUE:** As of this time, I have not received any indication as to what steps you would like to consider. Obviously, they range from taking none and allowing state law to totally govern to limiting the days upon which they may be sold and discharged to fewer days than the state law or prohibiting their use and sale. I have provided Wendy a copy of the ordinance which I drafted and provided last year which would limit the time periods. If you would like, I can provide an ordinance which would totally prohibit the sale and use which is the approach Oakville is considering at this stage.

4. **INTERLOCAL AGREEMENT WITH COUNTY:** At the last meeting I mentioned to Todd an interlocal agreement Elma had just entered into with the County in relation to the City being able to request the County's Public Works Department's assistance. Historically, this has been most frequently in relation to snow plowing and that type of activity. Todd indicated he felt there could be a benefit to having such an agreement available. Thus, I have contacted Ms. Tillotson, the civil deputy prosecutor, and we will be discussing the matter further. If the County's Road

Supervisor is agreeable, you will have a draft agreement for review at the next meeting.

5. DEVELOPMENT INCENTIVES: Since the last meeting I have continued the review of the alternatives. As noted, they are most frequently utilized in terms of commercial or multi-family construction. However, in terms of single-family residential more than one city has implemented policies that allow the developer to delay payment of connection fees, etc., until the property sells. Of course, the City perfects a lien upon the property to make certain it is as safe as one can make it.

Thanks to the courtesy of their City Attorney, Dan Heid, I have been provided the "packet" which is used by the City of Auburn. In my communications with him, he noted that the program has worked for them. I will await your direction as to whether you wish to have me "morph" the material for your review.

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

DG/le

TAB - C

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: September 22, 2017
Re: Current Non-Agenda Activity

Budget Season

Budget season has started a lot of my time for the next several weeks will be getting a quality budget for 2018.

PW Crew

The crew will be doing a storm water repair on 6th and Hemlock and also start replacing old water main starting at the well site.

Power Outage

I will be giving an update following the city wide power outage on September 22nd, starting at 11 pm and expecting to last until 7 AM on September 23rd. The reason for the outage is because of Bonneville Power Administration (BPA) will be updating and maintaining power equipment on the circuit that feeds the City of McCleary.

TAB - D

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: September 8, 2017
Re: Fireworks discussion

At previous meetings, the subject of fireworks has been brought up. There has been discussion of possibly banning them and also limiting them to certain times and dates. If Council would like to adopt an ordinance that is more restrictive than state law, the ordinance may not take effect until at least one year after adoption.

Action Requested:

Please give direction on what direction you would like staff to go on the fireworks issue.

For reference to what current state law is:

RCW 70.77.395**Dates and times consumer fireworks may be sold or discharged—Local governments may limit, prohibit sale or discharge of fireworks.**

(1) It is legal to sell and purchase consumer fireworks within this state from twelve o'clock noon to eleven o'clock p.m. on the twenty-eighth of June, from nine o'clock a.m. to eleven o'clock p.m. on each day from the twenty-ninth of June through the fourth of July, from nine o'clock a.m. to nine o'clock p.m. on the fifth of July, from twelve o'clock noon to eleven o'clock p.m. on each day from the twenty-seventh of December through the thirty-first of December of each year, and as provided in RCW [70.77.311](#).

(2) Consumer fireworks may be used or discharged each day between the hours of twelve o'clock noon and eleven o'clock p.m. on the twenty-eighth of June and between the hours of nine o'clock a.m. and eleven o'clock p.m. on the twenty-ninth of June to the third of July, and on July 4th between the hours of nine o'clock a.m. and twelve o'clock midnight, and between the hours of nine o'clock a.m. and eleven o'clock p.m. on July 5th, and from six o'clock p.m. on December 31st until one o'clock a.m. on January 1st of the subsequent year, and as provided in RCW [70.77.311](#).

(3) A city or county may enact an ordinance within sixty days of June 13, 2002, to limit or prohibit the sale, purchase, possession, or use of consumer fireworks on December 27, 2002, through December 31, 2002, and thereafter as provided in RCW [70.77.250](#)(4).

Below is our current Fireworks code:

**City of McCleary
Home of the Bear Festival****8.04 Fireworks**

- 8.04.010 Provisions adopted by reference.
- 8.04.020 Fireworks discharge restrictions.

8.04.010 Provisions adopted by reference.

The city adopts by reference the provisions of RCW Chapter 70.77 as now existing or hereafter amended to the extent they are not inconsistent with the other provisions of this chapter.

(Ord. 589 § 1, 1992; Ord. 206 § 1, 1962)

8.04.020 Fireworks discharge restrictions.

It shall be unlawful for any person to ignite, discharge, use or explode any common fireworks on any public property or rights-of-way and they shall be exploded only upon real property with the permission of the owner.

(Ord. 589 § 2, 1992)

I have also attached some other cities that restrict or ban fireworks in their cities.

Puyallup

Chapter 16.20

FIREWORKS

Sections:

- [16.20.010](#) Adoption of sections of Revised Code of Washington by reference.
- [16.20.020](#) City – Local public agency – Local government – Defined.
- [16.20.030](#) Local fire official – Defined.
- [16.20.035](#) Emergency fireworks ban – Defined.
- [16.20.040](#) Designee – Fire chief.
- [16.20.045](#) “Common fireworks” and “special fireworks” – Additional definitions.
- [16.20.050](#) State license and city permit required.
- [16.20.055](#) Inspections required.
- [16.20.060](#) Copy of license to be filed.
- [16.20.070](#) Certificate of insurance required.
- [16.20.080](#) Activities to be conducted in a safe and reasonable manner.
- [16.20.090](#) Permit required for sales – Application.
- [16.20.100](#) Retail fireworks stands.
- [16.20.110](#) Sale and discharge of fireworks.
- [16.20.120](#) Special purchase and use permits.
- [16.20.130](#) Permit for public display.
- [16.20.140](#) Agreement to confiscate and destroy illegal fireworks – Alternative to seizure process.
- [16.20.150](#) Permit revocation.
- [16.20.155](#) Emergency prohibition of fireworks use.
- [16.20.160](#) Penalty.
- [16.20.170](#) Severability.

16.20.010 Adoption of sections of Revised Code of Washington by reference.

The following laws contained within the Revised Code of Washington (RCW) are hereby adopted by reference as currently enacted and as hereafter amended from time to time, and shall be given the same force and effect as if set forth herein in full; provided, that any provision in the RCW dealing solely and exclusively with the investigation, prosecution, or sentencing of a felony crime is not adopted herein.

RCW

- 70.77.126 Definitions – “Fireworks.”
- 70.77.131 Definitions – “Special fireworks.”
- 70.77.136 Definitions – “Common fireworks.”
- 70.77.141 Definitions – “Agricultural and wildlife fireworks.”
- 70.77.146 Definitions – “Special effects.”
- 70.77.160 Definitions – “Public display of fireworks.”
- 70.77.165 Definitions – “Fire nuisance.”
- 70.77.170 Definitions – “License.”
- 70.77.175 Definitions – “Licensee.”
- 70.77.180 Definitions – “Permit.”
- 70.77.190 Definitions – “Person.”
- 70.77.200 Definitions – “Importer.”
- 70.77.205 Definitions – “Manufacturer.”
- 70.77.210 Definitions – “Wholesaler.”
- 70.77.215 Definitions – “Retailer.”
- 70.77.230 Definitions – “Pyrotechnic operator.”
- 70.77.236 Definitions – “New fireworks item.”
- 70.77.255 Acts prohibited without appropriate licenses and permits – Minimum age for license or permit – Activities permitted without license or permit.
- 70.77.260 Application for permit.
- 70.77.265 Investigation, report on permit application.
- 70.77.270 Governing body to grant permits – State-wide standards – Liability insurance.
- 70.77.280 Public display permit – Investigation – Governing body to grant – Conditions.
- 70.77.285 Public display permit – Bond or insurance for liability.
- 70.77.290 Public display permit – Granted for exclusive purpose.
- 70.77.295 Public display permit – Amount of bond or insurance.
- 70.77.345 Duration of licenses and retail fireworks sales permits.
- 70.77.381 Wholesalers and retailers – Liability insurance requirements.
- 70.77.386 Retailers – Purchase from licensed wholesalers.
- 70.77.401 Sale of certain fireworks prohibited.
- 70.77.405 Authorized sales of toy caps, tricks, and novelties.
- 70.77.410 Public displays not to be hazardous.
- 70.77.415 Supervision of public displays.
- 70.77.420 Storage permit required – Application – Investigation – Grant or denial – Conditions.
- 70.77.425 Approved storage facilities required.
- 70.77.435 Seizure of fireworks.

- 70.77.440 Seizure of fireworks – Proceedings for forfeiture – Disposal of confiscated fireworks.
- 70.77.480 Prohibited transfers of fireworks.
- 70.77.485 Unlawful possession of fireworks – Penalties.
- 70.77.488 Unlawful discharge or use of fireworks – Penalty.
- 70.77.495 Forestry permit to set off fireworks in forest, brush, fallow, etc.
- 70.77.510 Unlawful sales or transfers of special fireworks – Penalty.
- 70.77.515 Unlawful sales or transfers of common fireworks – Penalty.
- 70.77.517 Unlawful transportation of fireworks – Penalty.
- 70.77.520 Unlawful to permit fire nuisance where fireworks kept – Penalty.
- 70.77.525 Manufacture or sale of fireworks for out-of-state shipment.
- 70.77.535 Special effects for entertainment media.
- 70.77.540 Penalty.
- 70.77.545 Violation a separate, continuing offense.
- 70.77.547 Civil enforcement not precluded.
- 70.77.580 Retailers to post list of fireworks.
(Ord. 2722 § 2, 2002).

16.20.020 City – Local public agency – Local government – Defined.

The terms “city,” “local public agency,” and “local government,” as used in the sections of Chapter [70.77](#) RCW that are adopted by reference in this chapter, shall mean the city of Puyallup. (Ord. 2722 § 2, 2002).

16.20.030 Local fire official – Defined.

The term “local fire official,” as used in the provisions of the Revised Code of Washington adopted by this chapter, shall mean the chief of the fire and emergency services department of the city of Puyallup. (Ord. 2722 § 2, 2002).

16.20.035 Emergency fireworks ban – Defined.

The term “emergency fireworks ban” means use of consumer fireworks is prohibited. (Ord. 3116 § 1, 2016).

16.20.040 Designee – Fire chief.

Pursuant to RCW [70.77.270](#), the city council hereby designates the fire chief or his or her designee as the person with authority to grant or deny permits that are sought pursuant to this chapter. (Ord. 2722 § 2, 2002).

16.20.045 “Common fireworks” and “special fireworks” – Additional definitions.

(1) The term “common fireworks,” shall, in addition to the definition set forth in RCW [70.77.136](#), include the types of fireworks set forth in WAC [212-17-035](#).

(2) The term “special fireworks,” shall, in addition to the definition set forth in RCW [70.77.131](#), include the types of fireworks set forth in WAC [212-17-040](#). (Ord. 2722 § 2, 2002).

16.20.050 State license and city permit required.

(1) Pursuant to Chapter [70.77](#) RCW and this chapter, a permit issued by the fire chief or his or her designee shall be required for any activity enumerated in RCW [70.77.255](#)(1) or PMC [16.20.140](#).

(2) No permit for the activities set forth in RCW [70.77.255](#)(1) shall be issued until:

(a) A license issued by the Chief of the Washington State Patrol is filed with the fire chief or his or her designee; and

(b) A certificate of insurance as required by PMC [16.20.070](#) and Chapter [70.77](#) RCW is filed. (Ord. 2722 § 2, 2002).

16.20.055 Inspections required.

Prior to the issuance of any permit, the fire chief or his or her designee shall perform an inspection of any structure or building intended for retail activity, wholesale activity, manufacturing activity, fireworks storage, or public display of fireworks, to determine whether such structures or buildings comply with the requirements of the Revised Code of Washington, the Washington Administrative Code or the city code. No permit shall be issued until such structures or buildings comply with applicable laws. (Ord. 2722 § 2, 2002).

16.20.060 Copy of license to be filed.

Any person who obtains a permit as required by this chapter shall file with the fire chief, a copy of each license for such activity required by Chapter [70.77](#) RCW. (Ord. 2722 § 2, 2002).

16.20.070 Certificate of insurance required.

(1) As a condition of the issuance of any permit required by this chapter, and at all times during the sale, storage, or display of fireworks pursuant to the authority granted by a permit issued pursuant to this chapter, every retailer, wholesaler, manufacturer, or pyrotechnic operator operating within the city limits of Puyallup shall obtain and have in effect a bond or insurance in the amounts required by RCW [70.77.270](#), [70.77.285](#) and [70.77.295](#). The fire chief shall approve the bond or insurance if it meets the requirements of this section.

(2) Any certificate of insurance or bond required by this chapter or the sections of Chapter [70.77](#) RCW adopted by this chapter shall provide that:

(a) The insurer will not cancel the insured's coverage without 15 days prior written notice to the fire chief of the city of Puyallup and the Chief of the Washington State Patrol through the director of fire protection;

(b) The city of Puyallup, its employees, officer, agents, volunteers, and officials are included as additional insureds; and

(c) The city of Puyallup is not responsible for any premiums or assessments on the policy.

(3) Nothing in this section shall relieve any person of the insurance requirements in Chapter [70.77](#) RCW. (Ord. 2722 § 2, 2002).

16.20.080 Activities to be conducted in a safe and reasonable manner.

(1) All retailers of fireworks or persons publicly displaying fireworks shall be responsible for conducting activities in a manner that is safe and responsible and in compliance with all federal, state, and local laws and regulations. The issuance of any permit required by this chapter shall in no way relieve any person from the duty of complying with all federal, state, and local laws and regulations or conducting activities in a safe and reasonable manner. The issuance of a permit shall not be deemed an endorsement by the city of Puyallup of the activity engaged in.

(2) The city shall not be liable to any person, corporation, entity or holder of property for any damage that is caused by or derived from the display of fireworks, and the person displaying fireworks assumes all risks of such display, and shall hold the city and its employees and officials harmless from any and all claims or causes of action for damage caused by or derived from such display. (Ord. 2722 § 2, 2002).

16.20.090 Permit required for sales – Application.

An application for a permit to sell fireworks shall be made in writing to the fire chief or his or her designee no later than June 15th of the year for which permit is sought, on

forms provided for that purpose. Permit fees, inspection, and plan review charges shall be charged as required by resolution of the city council. The fire chief or his or her designee shall deny or grant any such application in writing. The fire chief or his or her designee may place reasonable conditions on any permit issued. The person applying for a permit may appeal in writing the denial of the permit or the conditions of the permit to the fire chief. The appeal shall be based solely upon written information provided by the applicant and information obtained or held by the fire chief, and no hearing shall be required. The determination of the fire chief of the appeal shall be final. (Ord. 2722 § 2, 2002).

16.20.100 Retail fireworks stands.

The following requirements shall apply to the operation of retail fireworks stands (hereinafter “stand”):

- (1) Prior to opening for business, a stand must be inspected and approved by the fire chief or his or her designee.
- (2) Inspections of stands shall not be conducted until the fire chief or his or her designee has received the following:
 - (a) A temporary use application;
 - (b) Documentation of approval by the community development department;
 - (c) A business license;
 - (d) A copy of the state license required by Chapter [70.77](#) RCW; and
 - (e) Proof of insurance as required by PMC [16.20.070](#).
- (3) Fire lanes and hydrants shall be maintained clear of obstruction and provide access at all times.
- (4) No decorations shall be used unless flameproof.
- (5) Electrical extension cords shall not be used without specific approval of the State Electrical Inspector or the fire chief or his or her designee.
- (6) No stand shall be located within 25 feet of any other building, including motor homes and trailers, nor within 50 feet of any gasoline or LPG dispensing device.
- (7) Each stand shall have at least two exits. Exits must be doors that open outward and must be clear and unlocked when the stand is occupied.
- (8) Each stand shall have at least two properly operating 2A, 20BC extinguishers mounted on the stand and easily accessible. Occupants must be physically capable of using the extinguishers, and must know how to operate the extinguishers.
- (9) Smoking is prohibited inside stands and within 25 feet of the exterior of stands. “No Smoking” signs shall be posted on the exterior front, back and sides, and interior of the stand.
- (10) No stand shall be located closer than 600 feet from another stand.
- (11) All weeds and combustible material shall be cleared from the location of the stand, including a distance of at least 20 feet surrounding the stand.
- (12) Stands shall be operated by adults, 18 years of age or older only. No fireworks shall be left unattended in a stand.
- (13) Every stand shall have a sign stating:
NO FIREWORKS MAY BE SOLD TO ANY PERSON UNDER THE AGE OF SIXTEEN YEARS. THE DISCHARGE OF FIREWORKS IS ONLY PERMITTED BETWEEN THE HOURS OF 9:00 A.M. AND 11:00 P.M. ON JULY 4. PUYALLUP MUNICIPAL CODE SECTION [16.20.130](#).

Signs shall be 12 inches by 18 inches and shall have letters and background of contrasting colors, readily readable from at least 10 feet. Signs shall be affixed to the front of the stand and shall be visible to the public at all times the stand is open for business.

(14) Overnight sleeping in a stand is prohibited.

(15) Heating appliances are prohibited in stands.

(16) All unsold fireworks, accompanying litter, and the stand shall be removed from the location by 12:00 noon on the 6th of July each year. (Ord. 2722 § 2, 2002).

16.20.110 Sale and discharge of fireworks.

(1) Except as permitted by this chapter and state law, it is unlawful to possess, discharge or sell at wholesale or retail any fireworks other than common fireworks.

(2) No common fireworks shall be sold or offered for sale at retail within the city except from 12:00 noon on the twenty-eighth day of June to 9:00 p.m. on the fourth day of July of each year. No common fireworks may be sold between the hours of 11:00 p.m. and 9:00 a.m.

(3) It is unlawful for a person to ignite, discharge, use or explode any common fireworks except between the hours of 9:00 a.m. and 11:00 p.m. on July 4th.

(4) It is unlawful for any person to discharge fireworks on the property of another without permission of the owner of such property. It is unlawful for any person to discharge fireworks in a public park unless a written permit has been obtained by park commissioners. It is unlawful for any person to discharge fireworks on city property that is not a park without the express written permission of the city council.

(5) No person shall sell any common fireworks to a consumer or user thereof under the age of 16 years.

(6) No person under the age of 16 years shall possess or discharge any fireworks unless directly supervised by an adult who is responsible for the person under the age of 16 years.

(7) The transfer of fireworks ownership, whether by sale at wholesale or retail, by gift or by other means of conveyance of title, or the delivery of any fireworks to any person who does not possess a valid permit at the time of such transfer where a permit is required by this chapter, is prohibited.

(8) The sale, transportation, possession, or discharge of fireworks not marked with the manufacturer's license number and State Fire Marshal's classification, as required by Chapter [70.77](#) RCW is prohibited.

(9) This section shall take precedence over and shall preempt any conflicting provision of the Revised Code of Washington or the Washington Administrative Code. (Ord. 2722 § 2, 2002).

16.20.120 Special purchase and use permits.

(1) Religious organizations or private organizations or persons may purchase or use common fireworks on dates and at times other than that specified in PMC [16.20.130](#) if:

(a) Purchased from a manufacturer, importer or wholesaler licensed pursuant to Chapter [70.77](#) RCW;

(b) For use on prescribed dates and locations;

(c) For religious or specific purposes; and

(d) A permit is obtained from the fire chief or his or her designee.

(2) Applications for a permit required under this section shall be made in writing to the fire chief or his or her designee on forms provided for that purpose and shall be

accompanied by a fee as required by resolution for each private or religious use of fireworks authorized by this section. The fire chief or his or her designee shall investigate whether the character and location of the proposed use would be hazardous or dangerous to any person or property. Based on such investigation, the fire chief or his or her designee may grant or deny such permit and may place reasonable conditions on any permit issued.

(3) No permit issued pursuant to this section shall be transferable. If such permit is issued it shall be lawful only for the prescribed uses. A permit authorized by this section shall not be issued unless the applicant is over the age of 18 years. (Ord. 2722 § 2, 2002).

16.20.130 Permit for public display.

(1) An application to make a public display of fireworks shall be made in writing to the fire chief or his or her designee on forms provided for that purpose and shall be accompanied by a fee as required by resolution for each display. Application shall be submitted at least 10 days in advance of the proposed display.

(2) The fire chief or his or her designee shall investigate whether the character and location of the display would be hazardous or dangerous to any person or property.

(3) If the fire chief or his or her designee grants a permit for the public display of fireworks, the sale, possession and use of fireworks for the public display is lawful for that purpose only. No such permit shall be transferable. Every public display of fireworks shall be conducted or supervised by a competent and experienced pyrotechnic operator approved by the fire chief or his or her designee.

(4) The person applying for a permit may appeal in writing the denial of the permit or the conditions of the permit to the fire chief. The appeal shall be based solely upon written information provided by the applicant and information obtained or held by the fire chief, and no hearing shall be required. The determination of the fire chief of the appeal shall be final. (Ord. 2722 § 2, 2002).

16.20.140 Agreement to confiscate and destroy illegal fireworks – Alternative to seizure process.

(1) In lieu of the formal seizure and forfeiture process set forth in RCW [70.77.435](#) and [70.77.440](#), the city and the person possessing or selling fireworks subject to seizure may enter an agreement wherein the city agrees to confiscate and destroy the fireworks subject to seizure.

(2) An agreement made pursuant to this section vests all right, title and possession in the fireworks with the fire chief or his or her designee. The fireworks may be immediately destroyed or otherwise disposed of at the discretion of the fire chief or his or her designee. (Ord. 2722 § 2, 2002).

16.20.150 Permit revocation.

Violations of any provision of Chapter [70.77](#) RCW, this chapter, or a permit issued hereunder, or any failure or refusal on the part of the permittee to obey any rule, regulation or request of the fire chief or his or her designee concerning fireworks, shall be grounds for the revocation of a fireworks permit. (Ord. 2722 § 2, 2002).

16.20.155 Emergency prohibition of fireworks use.

Upon recommendation of the city manager, the city council of the city of Puyallup may issue a citywide temporary order prohibiting the use of consumer fireworks. Said recommendation shall be based on a reasonable and articulable belief that hazardous conditions exist where the use of consumer fireworks poses a severe wildland or woodland fire hazard, increasing risk and threatening public safety. Prior to making the

recommendation, the city manager shall consult the fire chief and/or police chief for best available public safety information pertinent to the conditions. Said information shall be communicated to city council as part of the city manager's recommendation. At a minimum the risk of fire danger in Pierce County must be determined by the Washington Department of Natural Resources to be "very high/extreme" or otherwise at the highest fire danger level. The temporary emergency order shall specify the time period it shall be in effect. The emergency order may be cancelled by the city manager prior to its expiration date, based on information from the fire chief and/or police chief as to prevailing conditions. (Ord. 3116 § 2, 2016).

16.20.160 Penalty.

Except as otherwise provided in this chapter, any person violating any provision of this chapter or any permit issued pursuant to this chapter is guilty of a misdemeanor punishable by imprisonment for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine. A person is guilty of a separate offense for each day or occurrence during which he or she commits, continues, or permits a violation of any provision of, or permit issued under, this chapter. The inclusion in this chapter of criminal penalties does not preclude enforcement of this chapter through civil means. (Ord. 2722 § 2, 2002).

16.20.170 Severability.

If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of the chapter or the application of the provisions to other persons or circumstances is not affected. (Ord. 2722 § 2, 2002).

Kirkland

Chapter 11.60

FIREWORKS

Sections:

- [11.60.010](#) Definitions.
- [11.60.020](#) Sale of fireworks unlawful.
- [11.60.030](#) Possession, use and discharge of fireworks unlawful.
- [11.60.040](#) Permit required to display fireworks.
- [11.60.050](#) Permit fees.
- [11.60.060](#) Issuance—Nontransferable—Voiding.
- [11.60.070](#) Application for public display permit.
- [11.60.080](#) Standards for public fireworks.
- [11.60.090](#) Use of fireworks in public parks and on public land.
- [11.60.100](#) Special effects for entertainment media.
- [11.60.110](#) Nonprohibited acts—Signal purposes, forest protection.
- [11.60.120](#) Construction.
- [11.60.130](#) Enforcement.

11.60.010 Definitions.

The definitions of Chapter [70.77](#) RCW as now stated or hereafter amended shall govern the construction of this chapter, when applicable. RCW [70.77.120](#) through and including RCW [70.77.230](#) as now stated or hereinafter amended is adopted by this reference and a

copy of such shall be kept on file in the office of the city clerk for public use and inspection. In addition, the following terms are defined:

(1) Dangerous Fireworks. Any fireworks not defined as “consumer fireworks” under the provisions of RCW [70.77.136](#). (Ord. 4334 § 6 (part), 2011)

11.60.020 Sale of fireworks unlawful.

It is unlawful for any person, firm or corporation to sell any fireworks within the city; provided, that this prohibition does not apply to duly authorized public displays. (Ord. 4334 § 6 (part), 2011)

11.60.030 Possession, use and discharge of fireworks unlawful.

Except as authorized by state license and city permit granted pursuant to RCW [70.77.260](#)(2) (public display) or RCW [70.77.311](#)(2) (use by group or individual for religious or other specific purpose on approved date and at an approved location), it is unlawful for any person, firm, or corporation to engage in the retail sale of, or to sell, possess, use, transfer, discharge or explode any fireworks of any kind within the city. Violation of this section, to the extent it also constitutes a violation of RCW [70.77.488](#), [70.77.510](#) or [70.77.515](#), shall constitute a gross misdemeanor. Otherwise, violation of this section shall constitute a misdemeanor. (Ord. 4334 § 6 (part), 2011)

11.60.040 Permit required to display fireworks.

It is unlawful for any person, firm or corporation to hold, conduct or engage in a public display of fireworks within the city without first having obtained and being the holder of a valid permit issued pursuant to the provisions of this chapter. (Ord. 4334 § 6 (part), 2011)

11.60.050 Permit fees.

The fee for a public display permit for the public display of fireworks shall be one hundred dollars, payable in advance. (Ord. 4334 § 6 (part), 2011)

11.60.060 Issuance—Nontransferable—Voiding.

Each public display permit issued pursuant to this chapter shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is a violation of this chapter and shall void the permit granted in addition to all other sanctions provided in this code. (Ord. 4334 § 6 (part), 2011)

11.60.070 Application for public display permit.

Applications for a permit to hold, conduct, or operate a public display of fireworks as defined under Chapter [70.77](#) RCW shall be made to the building official for a permit. Such a permit shall also require the approval of the fire department. Applications shall be made at least fourteen days prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display and, in particular, shall hold a pyrotechnic operator license issued by the state of Washington as defined by Chapter [70.77](#) RCW and Chapter [212-17](#) WAC. (Ord. 4491 § 4 (part), 2015; Ord. 4334 § 6 (part), 2011)

11.60.080 Standards for public fireworks.

All public fireworks displays shall conform to the following minimum standards and conditions:

(1) All public fireworks displays must be planned, organized, and discharged by a state-licensed pyrotechnician.

(2) A permit must be obtained from the city and approved by the fire department or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his address, the name of the pyrotechnician and his address, the exact location, date and time of the proposed display, the number, type and class of fireworks to be displayed, the manner in which the fireworks are being stored prior to the public fireworks display.

(3) The applicant for a public display of fireworks permit shall include with the application evidence of a bond issued by an authorized surety or a certificate of public liability insurance. Such bond or certificate shall conform to the requirements set forth in RCW [70.77.285](#) and [70.77.355](#).

(4) A drawing shall be submitted with the application to the fire department showing a plan view of the fireworks discharge site and the surrounding area within a five-hundred-foot radius. The drawing shall include all structures, fences, barricades, streets, fields, streams, and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(5) When, in the discretion of the fire department, such requirement is necessary to preserve the public health, safety and welfare, the permit may, at the direction of the fire department or designee, require that a Kirkland fire pumper and a minimum of three firefighters shall be on site thirty minutes prior to and after the conclusion of the display. All compensation for fire personnel and apparatus will be paid by the applicant in an amount calculated according to the Washington State Chiefs Association's fee schedule and shall be designated to the Kirkland fire and life safety district.

(6) All combustible debris and trash shall be removed by the applicant from the area of discharge for a distance of three hundred feet in all directions.

(7) Applicant shall dispose of all unfired or "dud" fireworks in a safe manner.

(8) Applicant shall provide the fireworks discharge site a minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket.

(9) The permit may be immediately revoked at any time deemed necessary by the fire department or designee due to any noncompliance, weather conditions such as extremely low humidity or wind factor. The display may also be canceled by accidental ignition of combustible or flammable material in the vicinity due to fall debris from the display.

(10) Areas of public access shall be determined by the fire department or designee and maintained by the applicant in an approved manner. (Ord. 4491 § 4 (part), 2015; Ord. 4334 § 6 (part), 2011)

11.60.090 Use of fireworks in public parks and on public land.

It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park owned by the city of Kirkland; provided, however, nothing herein shall be deemed to limit the authority of the city to allow event display of special fireworks under a permit issued in accordance with the provisions of this chapter.

Violation of this section shall constitute a misdemeanor. (Ord. 4334 § 6 (part), 2011)

11.60.100 Special effects for entertainment media.

This chapter does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio or television productions, theatricals or operas when such use and display are a necessary part of the production and such person possesses a valid permit issued by the city of Kirkland to purchase, possess, transport or use such fireworks. (Ord. 4334 § 6 (part), 2011)

11.60.110 Nonprohibited acts—Signal purposes, forest protection.

This chapter does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities. (Ord. 4334 § 6 (part), 2011)

11.60.120 Construction.

This chapter is intended to implement Chapter [70.77](#) RCW, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto. (Ord. 4334 § 6 (part), 2011)

11.60.130 Enforcement.

The fire department, or designee, in coordination with the building official, is authorized to enforce all provisions of this chapter and, in addition to criminal sanctions or civil remedies, he/she may revoke any permit issued pursuant to this chapter upon any failure or refusal of the permittee to comply with the orders and directives of the fire chief or designee, and/or to comply with any provisions of this code relating to temporary structures. (Ord. 4491 § 4 (part), 2015; Ord. 4334 § 6 (part), 2011)

TAB - E

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: September 8, 2017
Re: Development Incentives

After meeting with Dan, Ben, and Paul about possible development incentives the city could provide, I have found that there is several potential incentives that we could legally provide. Below and attached is information that I have found. Please review and give direction on whether to pursue any of these incentives or if you have any ideas on possible incentives.

RCW 36.70A.540**Affordable housing incentive programs—Low-income housing units.**

(1)(a) Any city or county planning under RCW [36.70A.040](#) may enact or expand affordable housing incentive programs providing for the development of low-income housing units through development regulations or conditions on rezoning or permit decisions, or both, on one or more of the following types of development: Residential; commercial; industrial; or mixed-use. An affordable housing incentive program may include, but is not limited to, one or more of the following:

- (i) Density bonuses within the urban growth area;
- (ii) Height and bulk bonuses;
- (iii) Fee waivers or exemptions;
- (iv) Parking reductions; or
- (v) Expedited permitting.

(b) The city or county may enact or expand such programs whether or not the programs may impose a tax, fee, or charge on the development or construction of property.

(c) If a developer chooses not to participate in an optional affordable housing incentive program adopted and authorized under this section, a city, county, or town may not condition, deny, or delay the issuance of a permit or development approval that is consistent with zoning and development standards on the subject property absent incentive provisions of this program.

(2) Affordable housing incentive programs enacted or expanded under this section shall comply with the following:

(a) The incentives or bonuses shall provide for the development of low-income housing units;

(b) Jurisdictions shall establish standards for low-income renter or owner occupancy housing, including income guidelines consistent with local housing needs, to assist low-income households that cannot afford market-rate housing. Low-income households are defined for renter and owner occupancy program purposes as follows:

(i) Rental housing units to be developed shall be affordable to and occupied by households with an income of fifty percent or less of the county median family income, adjusted for family size;

(ii) Owner occupancy housing units shall be affordable to and occupied by households with an income of eighty percent or less of the county median family income, adjusted for family size. The legislative authority of a jurisdiction, after holding a public hearing, may establish lower income levels; and

(iii) The legislative authority of a jurisdiction, after holding a public hearing, may also establish higher income levels for rental housing or for owner occupancy housing upon finding that higher income levels are needed to address local housing market conditions. The higher income level for rental housing may not exceed eighty percent of the county area median family income. The higher income level for owner occupancy housing may not exceed one hundred percent of the county area median family income. These established higher income levels are considered "low-income" for the purposes of this section;

(c) The jurisdiction shall establish a maximum rent level or sales price for each low-income housing unit developed under the terms of a program and may adjust these levels or prices based on the average size of the household expected to occupy the unit. For renter-occupied housing units, the total housing costs, including basic utilities as determined by the jurisdiction, may not exceed thirty percent of the income limit for the low-income housing unit;

(d) Where a developer is utilizing a housing incentive program authorized under this section to develop market rate housing, and is developing low-income housing to satisfy the requirements of the housing incentive program, the low-income housing units shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in low-income units must be in the same proportion as the number of bedrooms in units within the entire development. The low-income units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development;

(e) Low-income housing units developed under an affordable housing incentive program shall be committed to continuing affordability for at least fifty years. A local government, however, may accept payments in lieu of continuing affordability. The program shall include measures to enforce continuing affordability and income standards applicable to low-income units constructed under this section that may include, but are not limited to, covenants, options, or other agreements to be executed and recorded by owners and developers;

(f) Programs authorized under subsection (1) of this section may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized under this section may be modified to meet local needs and may include provisions not expressly provided in this section or [RCW 82.02.020](#);

(g) Low-income housing units developed under an affordable housing incentive program are encouraged to be provided within developments for which a bonus or incentive is provided. However, programs may allow units to be provided in a building located in the general area of the development for which a bonus or incentive is provided; and

(h) Affordable housing incentive programs may allow a payment of money or property in lieu of low-income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site, as long as the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Any city or county shall use these funds or property to support the development of low-income housing, including support provided through loans or grants to public or private owners or developers of housing.

(3) Affordable housing incentive programs enacted or expanded under this section may be applied within the jurisdiction to address the need for increased residential development, consistent with local growth management and housing policies, as follows:

(a) The jurisdiction shall identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;

(b) The jurisdiction shall provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or other incentives;

(c) The jurisdiction shall determine that increased residential development capacity or other incentives can be achieved within the identified area, subject to consideration of other regulatory controls on development; and

(d) The jurisdiction may establish a minimum amount of affordable housing that must be provided by all residential developments being built under the revised regulations, consistent with the requirements of this section.

[[2009 c 80 § 1](#); [2006 c 149 § 2](#).]

City of Vancouver Development Incentives

		City of Vancouver Development Incentives						Examples Where Used	
		Vancouver/Local	State	Federal	City-Wide	Downtown	Fourth Plain		
Tax or Fee-Based Incentives	Description								
1	Multi-Family Housing Tax Abatement	Local program authorized by state; property taxes deferred on >3 m.f. units for 8 yrs (market rate) or 12 years (if 20% affordable)	X	X			X	X	Vancouvercenter, Heritage Place, Prestige Plaza, 11 West, West Coast Building,
2	City Traffic Impact Fee (TIF) Reduction	New incentive: For businesses locating to Vancouver or adding more than 200 employees and which pay higher than median salaries, tiered schedule of TIF reduction can apply, subject to a D.A. approval by Council	X			X			Banfield HQ
3	City TIF Credits for Redevelopment	Sites that are redeveloped may receive "credit" for the traffic that the previous use(s) generated, which reduces the fee for new development	X			X			Vancouvercenter, Heritage Place, Prestige Plaza, 11 West, West Coast, Library Square
4	City Business License Surcharge Exemption	New incentive: For businesses locating to Vancouver or adding more than 200 employees and which pay higher than median salaries, business license surcharge of \$50/employee can be eliminated, subject to a D.A. approval by Council	X			X			Banfield HQ
5	City Building Permit Fee Cap (\$3M)	New incentive: In 2013, CED implemented a building valuation permit fee cap of \$3M, so buildings with an estimated value of more than \$3M will have their fee based as if building is \$3M	X			X			All large (+\$3M) projects since July 2013; Banfield HQ is one example
6	City Building Permit Fee Reduction (30%)	New incentive: In 2013, CED also implemented an across-the-board reduction in building plan review/permit fees of 30% for commercial/industrial and multi-family projects, due to efficiencies in the permitting process	X			X			All projects except single family and subtrade permits since July 2013

Development Incentives (cont.)

			Vancouver/Local	State	Federal	City-Wide	Downtown	Fourth Plain
7	City System Development Charge (SDC) Assistance Program	New incentive: Initially established to reduce upfront SDC costs by restaurants (which have large fees), owners of businesses with 2" or smaller water meters can lease sewer capacity on a monthly basis rather than purchase it upfront. Policy was extended to other businesses including Banfield HQ in 2014	X		X			A number of restaurants citywide; Banfield HQ
8	City SDC Credits for Redevelopment	Similar to the TIF Credits for redevelopment, Water and Sewer System Development Charges (SDC's) for new development receive a "credit" for the water/sewer usage of the previous use(s)	X		X			Vancouvercenter, Heritage Place, Prestige Plaza, 11 West, West Coast
9	Clark County Historic Preservation Tax Credits	Federal, state and local programs offer tax incentives that provide substantial savings to property owners who maintain and restore historic structures. This includes a historic tax deferral program for property owners of qualifying open space lands, and a "special valuation" program that defers taxes on improvements to historic properties for 10 years	X					
10	Downtown Employee Off-street Parking Permits	Pilot parking program for reduced parking permits (\$30/mo.) for hourly wage employees in the downtown. 20 spaces in the Vancouvercenter garage are reserved for these special permits.	X			X		
11	Governor's Opportunity Fund	The Governor has a discretionary fund of \$500,000/yr which can be used to attract (or retain) a major corporation to the state. Any funds so approved are distributed to the assigned ADO (CREDC in Vancouver's case)		X				Banfield HQ

Development Incentives (cont.)			Vancouver/Local	State	Federal	City-Wide	Downtown	Fourth Plain
12	State of Washington Biotechnology Sales/Use Tax Deferral or Waiver	A sales and use tax deferral or waiver may be available for construction and equipment purchases that support biotechnology and medical device manufacturers		X		X		
13	State of Washington High Technology B&O Tax Credit	A B&O tax credit may be available to businesses conducting research and development in high technology fields		X		X		
14	State of Washington High Technology Sales / Use Tax Deferral or Waiver	A sales and use tax deferral or waiver may be available for construction and equipment purchases that support high technology		X		X		
15	State of Washington Manufacturing - Sales/Use Tax Deferral or Waiver	A sales and use tax deferral or waiver may be available for construction and equipment purchases for new and expanding businesses locating in qualifying counties		X		X		
16	State of Washington Manufacturing - Sales/Use Tax Deferral or Waiver: Mfg Machinery & Equipment	A sales and use tax deferral or waiver may be available for construction and equipment purchases used directly in manufacturing operation or research and development performed by a manufacturer, or testing operations performed for a manufacturer		X		X		
17	State of Washington Food Processing/ Manufacturing - B&O Tax Exemptions for Fresh Fruit and Vegetable Manufacturers	A B&O tax exemption may be available to manufacturers of fresh fruit and vegetables through canning, preserving, freezing, processing, or dehydrating fresh fruits/vegetables		X		X		
18	State of Washington Food Processing/ Manufacturing - B&O Tax Exemptions for Seafood Manufacturers	A B&O tax exemption may be available to manufacturers of seafood products; to purchasers who transport the goods out of state		X		X		
Development Incentives (cont.)			Vancouver/Local	State	Federal	City-Wide	Downtown	Fourth Plain

19	State of Washington Food Processing / Manufacturing - B&O Tax Exemptions for Dairy Manufacturers	A B&O tax exemption may be available to manufacturers of dairy products, or sales by the manufacturer of dairy products who transport the goods out of state		X		X			
20	State of Washington Remittance of State Sales Tax for Warehouses, Distribution Centers & Grain Elevators	Wholesalers, or third-party warehouseers, who own or operate warehouses, grain elevators, and retailers who own or operate distribution centers, may qualify for remittance of state sales tax paid on the construction or expansion of warehouse or distribution center by at least 200K sf		X		X			
21	Washington State Department of Transportation Commute Trip Reduction Program	A business and occupation tax/public utility tax credit for employers who provide commute trip reduction incentives to or on behalf of their own (or other) employees		X		X			
22	Federal EB-5 Visa Program	The EB-5 visa provides a method of obtaining a green card for foreign nationals who invest at least \$1M (or \$500K in a Targeted Employment Area) which creates or retains at least 10 jobs for US workers excluding the investor and their immediate family			X	X			
23	New Market Tax Credits (NMTC)	The NMTC Program was established in 2000 to spur revitalization efforts of low-income and impoverished communities. Provides tax credit incentives to investors for equity investments in certified Community Development Entities, which invest in low-income			X		X	X	FarWest Steel; Library Square qualifies as for this as a "distressed property" under previous census
24	US Dept. of Energy Renewable Energy Cost Recovery Incentive Payment Program	Provides reimbursement for generating electricity on site with an anaerobic digester, wind generator, or solar energy system			X	X			
Development Incentives (cont.)			<div style="display: flex; justify-content: space-around; text-align: center;"> Vancouver/Local State Federal City-Wide Downtown Fourth Plain </div>						

25	US Dept. of Energy Clean Alternative Fuel Vehicles Tax Incentive	Sales/Use tax exemptions are available to businesses for purchasing or leasing a new passenger car, light duty truck, or medium duty passenger vehicle that is powered exclusively by clean alternative fuels			X	X			
26	US Small Business Administration HUBZone Program	The Historically Underutilized Business Zones Program helps small businesses in urban and rural communities gain preferential access to federal procurement activities. HUBZone-certified businesses are eligible for competitive and sole-source contracting opportunities and a 10% price-evaluation preference in full and open contract competitions, as well as subcontracting opportunities			X	X			
Process-Based Incentives		Description							Examples Where Used
1	Case Manager/Team Approach to Reviews	Every land use project that is submitted is assigned to a case manager (planner) who coordinates the review with a consistent team of reviewers from other departments (e.g. engineering, fire, building, etc.), which provides one point of contact for applicants.	X			X			All projects since around 1998
Development Incentives (cont.)					<div style="display: flex; justify-content: space-around; text-align: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Vancouver/Local</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">State</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Federal</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">City-Wide</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Downtown</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Fourth Plain</div> </div>				

2	Streamlined Land Use/Engineering Review Process	The City has an award-winning streamlined review process whereby land use applications are reviewed concurrently (vs. consecutively) with engineering plans, all within 90 days of city review time. This process is at the applicant's option, and is available at no extra charge. Additionally, if building plans are ready to submit at the same time, all three processes can be handled together	X			X		Most major projects since 2000
3	Planned Action - Frontloading SEPA Review	Currently the VCCV is the only subarea for which a Planned Action Ordinance has been approved. City prepared an Environmental Impact Statement for all future development in the 20-year horizon, therefore any project which is consistent with the plan and within the scope of environmental impacts assessed does not require further SEPA review	X			X		Heritage Place, Vancouvercenter, Library, Esther Short Commons, Hilton Hotel, Columbia Building (City Hall), West Coast (Columbia) Bank Building, 101 Building, County Public Service Building
4	Planned Action - Type I Site Plan Reviews	In the VCCV where there has been significant upfront planning and public input, city code provides that every development, no matter how large, will be handled as a Type I (28 day) review with no public notice/appeal.	X			X		All downtown projects since 2008
Development Incentives (cont.)			<div style="display: flex; justify-content: space-around;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Vancouver/Local</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">State</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Federal</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">City-Wide</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Downtown</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Fourth Plain</div> </div>					

5	Small Business Pre-Lease Program	Free City service offered to small businesses where an on-site meeting with appropriate review staff from city, county and state visit with prospective tenants to identify major code issues or requirements before they sign a lease or purchase a property. Mostly used downtown where older buildings have unique issues.	X			X			Thirsty Sasquatch Taproom, Dirty Hands Brewpub, The Grocery, Bleu Door Bakery expansion, Loowit Brewery, Torque Coffee, Luepke Florist renovation, Trap Door Brewing, Kiggins Theater renovation
6	Pre-application Conference	Low cost meeting, primarily for larger projects, where review staff meet with applicants and go over all code requirements, fees, and process timelines before they apply for approvals. City has been recognized as a leader in providing quality information to applicants at this stage of the process.	X			X			All large projects in City
7	Request for Utility Services (RUS)	Free service to help applicants determine the location and size of available public water and sewer facilities that can serve a given development site, and what utility improvements or extensions may be needed for the development. Also prepared as part of pre-app.	X			X			All projects in City
8	Electronic Plan Review <i>*Coming Fall of 2015*</i>	Still in development, applicants will soon be able to submit plans/applications electronically and receive comments/corrections back from reviewers electronically, which will save substantial time and costs, and be more convenient	X						
Development Incentives (cont.)									
	Public-Private Partnership Incentives	Description							Examples Where Used

1	Development Agreements	Used primarily to "lock in" development standards, allowed uses, trip capacity, etc. on most major developments; also formalizes commitments made by developer and City	X							CTC, Vancouvercenter, Prestige Plaza, Heritage Plaza, West Coast (Columbia) Bank) Building, Riverview Tower, SWWMC, Clark College, Waterfront, etc.
2	Local Infrastructure Financing Tool (LIFT) - Pilot Program	This one-time tool approved by the State Legislature Local Infrastructure Financing Tool (LIFT) program, provides a credit of up to \$500,000 per year for 25 years against state sales and use tax for purpose of constructing a public parking garage to support the library and a proposed mixed use development		X				X*		*Available for Library Square only
3	Use of CDBG Funds for Grants/Loans	The CDBG Program receives an annual entitlement from the Federal Government. This past year, the City received a \$1.2 million allocation. In the past, CDBG has applied the majority of funding to service programs serving homelessness, mental health, youth services, and removing barriers for the disabled. It is possible to use a portion of this allocation for economic development-related projects, including public infrastructure, job training, daycare, etc. provided certain strict criteria are met, such as number of low wage jobs created.	X		X					Was made available to Banfield HQ but not acted upon
4	City-owned Properties: Negotiated Sale Price	For properties that the City owns, it can set a lower price in exchange for increased density, uses that are desired, quality design, etc.	X							Vancouvercenter, Prestige Plaza
Development Incentives (cont.)										
5	Financing/Construction of Public Facilities	A number of public parking garages have been built as part of private developments, using sales of tax-exempt G.O. Bonds	X							Vancouvercenter, Main Place, Riverview Tower, Library Square (proposed)

6	Destination Downtown Program	This partnership between the City, Vancouver's Downtown Association, and C-Tran provides incentives to employees for biking, walking, using transit, and carpooling which helps reduce congestion and frees up parking for downtown business patrons	X					X		
7	City Brownfield Assessment Program (Grant Funded through EPA)	City works with brownfield site property owners to encourage redevelopment by determining specific environmental constraints and facilitate clean up if needed. Includes Phase I and II Environmental Assessments and detailed remediation plans.	X		X	X				Projects currently pending
8	Workforce Training Grants (through SWWDC)	The Southwest Washington Workforce Development Council receives state funds and directs such funds to programs that train future employees for local companies. SWWDC works to understand the needs of local manufacturing and tech sectors	X	X						
9	Local Improvement Districts (LIDs)	State law allows cities to form local improvement districts which result in the construction of public infrastructure (roads, utilities, etc.) by the city, using publicly-financed dollars that are paid back by benefitting properties through multi-year assessments	X				X			City formed an LID along Evergreen Highway to reduce train horn noise at several crossings
Development Incentives (cont.)										
	Miscellaneous Incentives	Description								Examples Where Used

1	Reduced Minimum Parking Requirement	Low parking requirement in VCCV (1 space/mf unit, 1 space 1,000 sf non-residential), no minimum parking requirement in Fourth Plain Subarea; can count adjacent on-street spaces toward minimum requirement for non-residential uses	X				X	X	All downtown projects have been built with minimum parking; no projects along Fourth Plain have taken advantage of the no minimum parking requirement
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iStudios North is a multi-unit apartment development being built near the Tacoma Mall by Steve Novotny (left) and Roy Kissler, October 3, 2016. **Peter Haley** - phaley@thenewtribune.com

POLITICS & GOVERNMENT

Does Tacoma still need tax breaks to entice housing development?

BY CANDICE RUUD
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OCTOBER 05, 2016 5:00 PM

When someone questions the need for tax breaks to lure new development to Tacoma, Ricardo Noguera points to the sky.

The city's economic development director says he won't be satisfied until there are 20 to 30 cranes piercing the skyline downtown.

"There's two cranes in Tacoma right now," Noguera said recently as he pointed a city-owned Prius up a hill past The Grand on Broadway, a 139-unit residential development set to be completed next year.

As Noguera points out, Tacoma isn't experiencing the building boom of its neighbor to the north. But there are a handful of high-density projects underway he's excited about: Stadium Apartments at North G Street, which will eventually have 172 units and two stories of parking, and The Napoleon downtown, which will boast 135 units.

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They have something in common: The owners of both apartment complexes will enjoy an eight-year tax break from the city of Tacoma.

Those tax breaks are available to developers of high-density housing in Tacoma's 17 "mixed-use centers," such as Proctor, downtown, the Lincoln District and Tacoma Mall, and are meant to keep density in those districts and out of more residential areas.

The program exempts property taxes for eight to 12 years on the improvements a developer makes to a piece of land, provided the project results in four or more additional housing units. The developer still has to pay property taxes on the value of the land, but not on the buildings they develop there.

“

IF WE WERE TO DO AWAY WITH THE MULTIFAMILY TAX EXEMPTION, YOU WOULD MORE LIKELY THAN NOT SEE MANY PROJECTS IN THIS AREA GO AWAY, THEY WOULDN'T OCCUR.

Ricardo Noguera, city of Tacoma economic development director

Noguera and developers say if these tax breaks weren't available, they wouldn't be building here. Tacoma is not Seattle, Noguera says, and it's harder to encourage development here because buildings can't be as tall, developers can't charge as much for rent, and yet construction costs are similarly high.

"The big challenge for Tacoma, Lakewood, Everett, all these cities — Renton, Kent — is we don't have the density, we don't have the height. We share in the same construction costs, but we don't have the job growth you see in Seattle and Bellevue," Noguera said. "If we were to do away with the multifamily tax exemption, you would more likely than not see many projects in this area go away, they wouldn't occur."

Whether pivotal or not, the tax breaks have helped add thousands of apartments and condos to Tacoma's housing stock. What they haven't done, at least not directly, is create a lot of affordable housing. Since 2007, when the city started offering longer tax breaks to developers who set aside a portion of their units for people below the median income, only one project that qualified has been built.

That could be changing.

LONG UNPOPULAR, AFFORDABLE OPTION SEES A BOON

The Legislature approved the multifamily property tax exemption incentive program in 1995. It was designed to give developers and condo owners a 10-year break from property taxes on apartments, condos and other multifamily developments built in certain neighborhoods. The building or condo owners still pay taxes on the property on which the buildings were constructed, but get a tax break on the value of the structures themselves.

On its website, Tacoma bills itself as the first city to adopt the program. It got a slow start in the late 1990s and early 2000s, but ramped up in the mid-2000s, with dozens of new developments getting the exemption between 2004 and 2007.

In 2007, state lawmakers tweaked the program to create the two options that exist now: the 10-year break was reduced to an eight-year exemption for market-rate housing, and the 12-year option was created for developments with units that qualify as affordable housing.

Developers must keep at least 20 percent of rental units affordable to people earning no more than 80 percent of the area median income, which in Tacoma would equate to roughly \$40,000 for a one-person household. Condos must be affordable to buyers making no more than 115 percent of the area median income, or approximately \$58,000 for a one-person household.

Since the program began, 116 projects with 3,342 units have been built. Of those projects, only one qualified for the longer 12-year tax break: A development near the Tacoma Mall that is required to rent two of its six units to tenants who meet the income requirements.

● Completed ○ Active ● Approved but unbuilt

Multifamily property tax breaks

Since the city of Tacoma began offering tax breaks to apartment and condo developers, it has extended them to 137 projects, 21 of which are not yet built. Thirty-one properties have joined the tax rolls after the expiration of their tax breaks, most of them in 2010 or later.

But in the past three years, there has been a shift. Of the 21 projects approved by the City Council but not yet built, 12 of them have agreed to meet the affordable housing requirements. They tend to be in lower-rent areas — near the Tacoma Mall, the McKinley mixed-use center, or the Lincoln District — and usually are smaller, with fewer than 20 units.

The 12-year tax break had been unpopular, some developers and city officials said, because of regulations that made it seem like heavy penalties — including retroactive tax payments — would be levied against those who didn't perfectly comply with the affordable requirements. Auditing required to make sure that building managers were renting to income-eligible tenants also were seen as a burden.

"I'd done some of these where I only did an eight-year program, and there's two reasons why we went with the eight-year — I was worried about all that auditing, and they had so many regulations that if I messed up one little thing, that all of the tax savings

would go retroactive and I would have to pay it all back,” said Steve Novotny, a developer who has several 12-year projects under construction, including in South Tacoma near the Tacoma Mall and on Pacific Avenue.

Hearing developers’ concerns, city officials changed the language in the regulations to give developers a year to get in compliance. Now, those penalties are more geared toward developers who abuse the program and try to get the 12-year tax break without maintaining affordable units, and not those with minor bookkeeping errors.

Novotny said he noticed when he started building projects in cheaper parts of town that the majority of his tenants had lower incomes anyway.

- 85** Developments currently receiving tax breaks under multifamily property tax exemption
- 21** Projects approved by City Council since 2013 but not yet built
- 31** Developments in the MFPT program that are back on the tax rolls

“This makes me decide, OK, I’ll take less of a location and improve the area,” Novotny said, “so I’m taking a little risk and the city is taking a risk with me, and it’s like the rising tide lifts all ships.”

Connie Brown, executive director of the Tacoma-Pierce County Affordable Housing Consortium, said she would like to see more developers take advantage of the 12-year break.

About half of the people making between 30 and 50 percent of area median income in Pierce County are spending more than 50 percent of their income on rent, she said. The rule of thumb is that households should have to spend no more than 30 percent of their income on housing.

Seattle, she pointed out, doesn’t offer the eight-year tax break. If developers want a tax break, they have to include affordable housing in their mix.

“They say if you want to get a property tax exemption, you can have it for 12 years and you include affordable housing in the development,” she said. “So our having the eight-year is probably working against our goals for affordable housing.”

CITY SAYS TAX BREAKS STILL NEEDED

But city officials say they still need both options to entice developers to locate their projects in Tacoma, where they fill not only a need for more housing, but help boost the city’s tax base.

Thirty-one properties have joined the tax rolls after the expiration of their tax breaks, most of them in 2010 or later. Since 2015, the tax breaks on 15 developments have expired, pushing the total assessed value of those properties from \$4.3 million for just the land to \$33.4 million for the land plus the new buildings.

Another 20 properties are on their last year of the tax holiday and will return to paying full taxes at the beginning of 2017. They are among the 85 Tacoma developments currently receiving tax

breaks. Twenty-one more have been approved by the City Council since 2013 but haven't been built yet, according to the city. They range from small projects — four or 10 units in south and east Tacoma — to nearly 200-unit upscale condos and apartment buildings on the waterfront downtown.

116

Total projects built since MFPE program started

3,342

Units built as part of MFPE program

Most City Council members applaud the tax breaks as a way to eventually reap big tax revenues from properties that once sat lifeless. But Councilman Joe Lonergan has pressed city staff at recent council meetings about whether developers considering projects in popular, up-and-coming areas such as Proctor and Point Ruston need tax breaks.

In August, the City Council approved an eight-year tax break for 178 units at Point Ruston, the first multifamily property tax exemption granted for any development at the urban village near Point Defiance Park. Lonergan pointed out that the lack of tax breaks in the past have not stopped developers from building residential properties there: Upscale apartment buildings and a condominium development are already in place.

“That perhaps answers to some extent the question of whether this would have been built otherwise,” he said.

But economic development officials say they only know what they hear as they try to lure new development to Tacoma.

“Every developer will tell you ‘without this exemption, I can’t do my project,’ and we can’t really assess whether that’s true or not,” said Debbie Bingham, an economic development specialist for the city, in an interview. “I think Tacoma is still in a place where we have such low vacancy rates ... we feel like we need more development in housing.”

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iStudios North is a multi-unit apartment development being built near the Tacoma Mall by Steve Novotny (left) and Roy Kissler, October 3, 2016. **Peter Haley** - phaley@thenewstribune.com

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Incentive programs

Many businesses may qualify for several tax incentives offered by Washington state. These incentives include deferrals, reduced B&O rates, exemptions and credits.

Your annual filing requirement

If your business claimed a tax incentive, you are required to file your annual survey and/or the annual report by May 31 of each year. If May 31 falls on a weekend or state holiday, the due date is the next business day. *Some incentives require you to file both a survey and a report.* Check each tax incentive below for information on your reporting requirements. You can also review the survey and report to see if the incentive you claim is listed.

If you do not file your information by the deadline as required, the amount of incentive that you claimed during the incentive year may be billed back to you. Starting with annual surveys and annual reports due after July 1, 2017, if they are not filed timely, you will be billed 35 or 50 percent of the incentive claimed. For more information, see our Special Notice, [Changes to Annual Tax Incentive Reports and Surveys](#)

(http://dor.wa.gov/Docs/Pubs/SpecialNotices/2016/sn_August_16_tax_incentives.pdf).

- [Annual Survey \(/get-form-or-publication/forms-name\)](#) (*See page 1*)
- [Annual Report \(/get-form-or-publication/forms-name\)](#) (*See page 8*)

Aerospace Industry

Aluminum Smelting Industry

Biofuel Industry

Employer

Extracting & Timber Manufacturing

Farming & Agriculture

Food Manufacturing Industry

General Manufacturing

High Technology Industry

High Unemployment County / CEZ

Miscellaneous Incentive Programs

Renewable Energy / Green Incentives

Rural County / Community Empowerment Zone (CEZ) Incentives

Semiconductor Industry

Warehouse Incentive Programs

Aerospace Industry

B&O credit for preproduction development expenditures

B&O credit for property/leasehold taxes paid on aerospace business facilities

Construction of new facilities used for airplane repair and maintenance - retail sales and use tax exemption

Reduced B&O tax rate for aerospace businesses

Retail sales and use tax exemption for the construction of new facilities used to manufacture commercial airplanes, fuselages or wings of commercial airplanes

Sales & use tax exemption for aerospace businesses for computer hardware/software/peripherals

Aluminum Smelting Industry

B&O tax credit for property tax on aluminum smelter

B&O tax credit for state portion of sales tax on materials used in aluminum smelter

B&O Tax/Public utility tax credit for electricity, natural gas, or manufactured gas sold to aluminum smelters

Brokered natural gas use tax exemption

Reduced B&O tax rate for aluminum smelting

Biofuel Industry

B&O tax deduction for sales of biofuels (expired July 1, 2015)

Property/Leasehold tax exemption for manufacturers of biodiesel/alcohol fuel, etc.

Reduced B&O tax rate for manufacturing wood biomass fuel

Sales/Use tax exemption for machinery/equipment, delivery vehicles & construction of facilities for retail sales of biofuels (expired July 1, 2015)

Waste vegetable oil - Sales/use tax exemption and special fuel tax exemption on purchases for personal use

Employer

B&O credit for new employees in manufacturing and research & development in rural counties

Commute trip reduction program - B&O tax/public utility tax credit

Hiring unemployed veterans - B&O tax and PUT credit

Internationals Services - B&O tax credit for new employment

Washington customized employment training program - B&O tax credit

Extracting & Timber Manufacturing

Reduced B&O tax rate for timber extracting and manufacturing

Farming & Agriculture

Sales/Use tax exemption for anaerobic digesters

Sales/Use tax exemption for equipment to reduce field burning & construction of hay sheds expired January 1, 2011

Sales/Use tax exemption for farm fuel users

Sales/Use tax exemption for livestock nutrient management equipment & facilities

Sales/Use tax exemption for replacement parts for farm machinery & equipment

Food Manufacturing Industry

B&O tax deduction for manufacturers of dairy products

B&O tax exemption for manufacturers of fresh fruit & vegetables

B&O tax exemption for manufacturers of seafood products

General Manufacturing

Sales and Use Tax Deferral Certificate for Manufacturers - Eligible Investment Projects

Sales and Use Tax Exemption for Manufacturing Machinery & Equipment

High Technology Industry

Biotechnology & medical device manufacturing sales & use tax deferral/waiver (expired January 1, 2017)

High technology B&O credit for R&D spending (expired January 1, 2015)

High technology sales & use tax deferral/waiver (expired January 1, 2015)

High Unemployment County/CEZ

High unemployment county sales & use tax deferral/waiver for manufacturing facilities (effective July 1, 2010)

Miscellaneous Incentive Programs

Commute trip reduction program - B&O tax/public utility tax credit

International services - B&O tax credit for new employment

Main street tax credit - B&O tax/public utility tax credit

Newspapers - reduced B&O tax rate for publishers

Power for electrolyte processing - public utility tax exemption

Sales/Use tax exemption for motion picture and video production companies on rental of production equipment and purchase of production services

Washington filmworks contributors B&O tax credit (formerly motion picture competitiveness program)

Weatherization assistance program - sales & use tax exemption

Renewable Energy/Green Incentives

Clean alternative fuel and plug-in hybrid vehicles - sales/use tax exemptions

Clean alternative fuel commercial vehicles - B&O and PUT credit

Electric vehicle batteries and electric vehicle infrastructure (charging stations) - sales/use tax exemption, leasehold tax exemption

Hog fuel and forest-derived biomass - B&O tax credit and sales & use tax exemption

Machinery & equipment used to generate electricity using renewable energy & solar thermal heat systems - sales/use tax exemption

Renewable energy cost recovery incentive payment program - electrical energy production using power from solar, wind & anaerobic digester

Solar energy system and components of solar energy systems manufacturers - reduced B&O tax rate

Rural County/Community Empowerment Zone (CEZ) Incentives

B&O credit for new employees in manufacturing and research & development in rural counties

Purchases of server equipment and power infrastructure for use in eligible data centers - sales/use tax exemption

Sales & use tax deferral/waiver for corporate headquarters locating in community empowerment zone

Semiconductor Industry

Reduced B&O tax rate for manufacturers of semiconductor materials

Sales/Use tax exemption for purchases of semiconductor gases & chemicals

Warehouse Incentive Programs

Remittance of state sales tax for warehouses, distribution centers, & grain elevators

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TAB - F

PLANNING PARTNER EXPECTATIONS

ACHIEVING DMA COMPLIANCE FOR ALL PLANNING PARTNERS

One of the goals of the multi-jurisdictional approach to hazard mitigation planning is to achieve compliance with the Disaster Mitigation Act (DMA) for all participating members in the planning effort. There are several different groups who can be involved in this process at different levels, and as determined by the planning partnership. In order to provide clarity, the following is a general breakdown of those groups:

- ✓ Hazard Mitigation Plan Development Staff (county and consulting teams) responsible for the overall project management, plan development, and accounting of the project.
- ✓ The Hazard Mitigation Planning Team, whose makeup includes the county project management team, Bridgeview Consulting members, and those planning partners responsible for the plan's written development;
- ✓ The planning partners, who are those jurisdictions or special purpose districts that are *actually developing an annex* to the regional plan; and
- ✓ The planning stakeholders, which are the individuals, groups, subject matter experts, businesses, academia, etc., from which the planning team gains information to support the various elements of the plan.

DMA compliance requires that *participation* be defined in order to maintain eligibility with respect to meeting the requirements which allow a jurisdiction or special purpose district to develop an annex to the base plan. To achieve compliance for *all* partners, the plan must clearly document how each planning partner that is seeking linkage to the plan participated in the plan's development. The best way to do this is to clearly define "participation". For this planning process, "participation" is defined by the following criteria examples (this list is not all-inclusive):

- ✓ **Estimated level of effort.** It is estimated that the total time commitment to meet these "participation" requirements for a planning partner would be ***approximately 40 - 50 hours over the seven-month period.*** This time is reduced somewhat for special purpose districts.
- ✓ **Participate in the process.** As indicated, it must be documented in the plan that each planning partner "participated" in the process to the best of your capabilities. There is flexibility in defining "participation," which can vary based on the type of planning partner (i.e.: City or County, vs. a Special Purpose District) involved. However, the level of participation must be defined at the on-set of the planning process, and we must demonstrate the extent to which this level of participation has been met for each partner.

- ✓ The planning team will be responsible for supporting the partnership during the public involvement phases of the planning process. Support could be in the form of providing venues for public meetings, attending these meetings as participants, providing technical support, etc. Each entity completing an annex will be required to complete the public outreach strategy.
- ✓ **Duration of planning process.** This process is anticipated to take seven to nine months to complete (not including state and FEMA review). It will be easy to become disconnected with the process objectives if you do not participate in some of these meetings to some degree. General tasks associated with this effort include review of existing plans, updating of general profile and Census data, identification and/or verification of critical infrastructure, and public outreach efforts (to be identified and defined during planning meetings or workshops, but at a minimum will require two efforts).
- ✓ **Capability Assessment.** All planning partners will be asked to identify their capabilities during this process. This capability assessment will require a review of existing documents (plans, studies, and ordinances) pertinent to each jurisdiction to identify policies or recommendations that are consistent with those in the “base” plan or have policies and recommendations that complement the hazard mitigation initiatives selected (i.e.: comp plans, basin plans, or hazard specific plans or information, studies, reports, etc.).
- ✓ **Hazard Identification and Risk Ranking.** All planning partners will participate in the identification of hazards to be addressed during this effort and the overall risk ranking exercise for the base plan. (Other hazards not addressed by the general body of the group may be included in specific annex documents.) Once the base plan risk ranking has occurred, each planning partner will complete their own risk ranking exercise for their own jurisdiction/entity. This is a facilitated process, and requires mandatory attendance at the risk ranking planning meeting to gain compliance. This meeting will be mandatory attendance.
- ✓ **Action/Strategy Review.** All previous planning partners will be required to perform a review of the strategies from their respective prior action plan to: determine those that have been accomplished and how they were accomplished; and why those that have not been accomplished were not completed. Note – even if your plan has expired, it is still considered an update, and not a new plan. The planning team will be available to assist with this task; however, for existing planning partners, this is mandatory.
- ✓ **Annex Template Development.** Each planning partner will be required to develop their own annex template, which will be the data specific to their entity or jurisdiction. Information contained in this document will include, but is not limited to: community profile, population or service area data, disaster history information, identification of critical facilities. The template itself will be provided; however, the actual completion of the document is a requirement of each planning partner. This element is mandatory for active participation.

- ✓ **Consistency Review.** All planning partners will be required to review the entire base plan when completed, and their respective annex document after final editing by the planning team. Customarily, there is a minimum of two weeks provided for this review process, but normally we attempt to give an entire month for this element of the project.
- ✓ **Plan adoption.** Each jurisdiction and special purpose district involved in the effort must adopt the plan once FEMA and State approval have been gained. If not adopted by each jurisdiction, that jurisdiction's plan is not considered to be "in place," meaning that in essence, they have no hazard mitigation plan in place even though they have gone through the process.

One of the benefits to multi-jurisdictional planning is the ability to pool resources. This means more than monetary resources. Resources such as staff time, meeting locations, media resources, technical expertise will all need to be utilized to generate a successful plan.

It is anticipated that two or three workshop sessions will be required to complete this plan. Those sessions will last three or four hours each, and take the place of monthly meetings. While the workshop sessions will provide the bulk of actual meeting attendance, based on the progress of the planning partnership as a whole, there may be additional meetings which may be required; *however, each planning partner will be required to attend, at a minimum, the two-three workshops.* Much of the data exchange can occur through email or telephone calls, which will supplement the workshops.

With the above participation requirements in mind, each planning partner will be asked to aid this process by being prepared to develop its own section of the plan. To be an eligible planning partner in this effort, each Planning Partner will be asked to provide the following:

- A. A "Letter of Intent to participate" or Resolution to participate to the Planning Team (see exhibit A).
- B. Designate a lead point of contact for this effort. This designee will be listed as the hazard mitigation point of contact for your jurisdiction in the plan. An alternate is also highly recommended in case the designated lead becomes unavailable.
- C. Identify their hourly rate of pay for this point of contact, which will be used to calculate the in-kind match for the grant that is funding this project.
- D. If requested, provide support in the form of mailing list, possible meeting space, and public information materials, such as newsletters, newspapers, or direct mailed brochures, required to implement the public involvement strategy developed during this planning process.
- E. Participate in the process. There will be many opportunities as this plan evolves to participate. Opportunities such as:

Planning Partner Expectations
Grays Harbor County Hazard Mitigation Plan Update

- a. Hazard Mitigation Planning Team meetings;
- b. Public meetings or open houses;
- c. Workshops/ Planning Partner specific training sessions;
- d. Public review and comment periods prior to adoption.

At each one of these opportunities, attendance will be recorded. Attendance records will be used to document participation for each planning partner. While attendance at every meeting may not be practical, there are meetings which are mandatory. Each planning partner should attempt to attend as many meetings and events as possible, but must attend the minimum established requirement.

- F. There will be **mandatory** workshops that all planning partners will be required to attend. These workshops will cover specific items, one of which will be the proper completion of the jurisdictional annex template which is the basis for each partner's jurisdictional chapter in the plan. Failure to have a representative at these mandatory workshops will disqualify the planning partner from participation in this effort. The scheduling for these workshops will be far enough in advance to allow the planning partners to attend.
- G. In addition to participation in the mandatory workshops, each partner will be required to complete their annex document, and provide it to the planning team in the timeframe established. Technical assistance in the completion of these annexes will be available, but the actual writing of the annex document is the responsibility of each planning partner. Failure to complete your annex in the required timeframe may lead to disqualification from the partnership.
- H. Each partner will be asked to perform a "consistency review" and "capabilities assessment" of all technical studies, plans, ordinances specific to hazards to determine the existence of any not consistent with the same such documents reviewed in the preparation of the County (parent) Plan. In the same category, each partner will also be required to review the entire base plan once completed, as well as their edited annex.
- I. Each partner will be asked to review the Risk Assessment and identify hazards and vulnerabilities specific to its jurisdiction. Resources will provide the jurisdiction specific mapping and technical consultation to aid in this task if the jurisdiction/entity does not have their own capacity, but the determination of risk and vulnerability will be up to each partner (through a facilitated process during one of the mandatory workshops).
- J. Each partner will be asked to review and determine if the mitigation recommendations chosen in the parent plan will meet the needs of its jurisdiction. Projects within each jurisdiction consistent with the parent plan recommendations

will need to be identified and prioritized, and reviewed to determine their benefits vs. costs.

K. Each partner will be required to create its own action plan that identifies each project, who will oversee the task, how it will be financed and when it is estimated to occur.

L. Each partner will be required to formally adopt the plan.

Planning tools and instructions to aid in the compilation of this information will be provided to all committed planning partners. Each partner will be asked to complete their annexes in a timely manner and according to the timeline established during the initial planning meeting.

**** Note**:** Once this plan is completed, and FEMA approval has been determined for each partner, maintaining that eligibility will be dependent upon each partner implementing the plan's maintenance protocol identified in the plan.

Exhibit A
Example Letter of Intent to Participate

Grays Harbor County Hazard Mitigation Planning Partnership
C/O Bev O’Dea, Bridgeview Consulting, LLC.
915 No. Laurel Lane
Tacoma, WA 98406

Via email at: BevOdea@bridgeviewconsulting.org

Dear Grays Harbor County Planning Partnership,

Please be advised that the _____ (*insert City or district name*) is committed to participating in the update to the Grays Harbor County Hazard Mitigation Plan. As the _____ (title, e.g., Chief Administrative Official) for this jurisdiction, I certify that I will commit all necessary resources in order to meet Partnership expectations as outlined in the “Planning Partners expectations” document provided by the planning team, in order to obtain Disaster Mitigation Act (DMA) compliance for our jurisdiction.

Mr./Ms. _____ will be our jurisdiction’s point of contact for this process and they can be reached at (*insert: address, phone number and e-mail address*). We understand that this designated point of contact’s time will be applied to the “in-kind” local match for the grant that is funding this project. To aid in the determination of this local match, we have determined that the hourly rate (base salary only - no benefits included) for our designated point of contact is \$_____ per hour. The funding source for our point of contact’s position within our jurisdiction is _____ / is not _____ through federal funds. If it is through federal funds, what percentage of their salary is federally funded? _____%

Sincerely,

Planning Partner Expectations
Grays Harbor County Hazard Mitigation Plan Update



Frequently Asked Questions Multi-Hazard Mitigation Planning

Question: What is hazard mitigation, and what is a Hazard Mitigation Plan?

Answer: Hazard mitigation is defined as any sustained action taken to permanently eliminate or reduce long-term risks to human life and property from natural hazards. A Hazard Mitigation Plan is prepared by local governments and special purpose districts in response to the Disaster Mitigation Act of 2000 (Public Law 106-390). These plans act as a keyway to federal funding afforded under the Robert T. Stafford Act. These plans meet statutory requirements that include:

- Organizing resources
- Assessing Risk
- Engaging the public
- Identifying Goals and Objectives
- Identifying actions
- Developing plan maintenance and implementation strategies

Question: What is the Disaster Mitigation Act of 2000?

Answer: The federal Disaster Mitigation Act (DMA) of 2000 (Public Law 106-390), commonly known as the 2000 Stafford Act amendments, was approved by Congress on October 10, 2000. This act required state and local governments to develop hazard mitigation plans as a condition for federal grant assistance. Among other things, this legislation reinforces the importance of pre-disaster infrastructure mitigation planning to reduce disaster losses nationwide. DMA 2000 is aimed primarily at the control and streamlining of the administration of federal disaster relief and programs to promote mitigation activities. Prior to 2000, federal legislation provided funding for disaster relief, recovery, and some hazard mitigation planning. The DMA improves upon the planning process by emphasizing the importance of communities planning for disasters before they occur.

Question: Does the State of Washington have a State Multi-Hazard Mitigation Plan?

Answer: Yes. The State of Washington is also required to respond to the Disaster Mitigation Act of 2000 by developing a plan. In fact, if the state does not have a plan, no local governments within the state are eligible for any of the grant programs normally available as a result of developing a HMP. By law, the local plans are to be consistent with the recommendations of the state plan. The State of Washington actually has an Enhanced Plan, which means that we receive increased funding amounts after a disaster.



Question: What hazards will the mitigation plan address?

Answer: *At a minimum, the plan must address the natural hazards of concern that could impact the County planning area. It may also include a select number of technological or human caused hazards. It should also be noted that there are many secondary hazards that are directly attributable to these primary hazards that will also be addressed by the plan as part of the analysis of the primary hazard of concern.*

Question: Will Global Warming/Climate Change be addressed in the Multi-Hazard Mitigation Plan?

Answer: *Yes. While climate change will not be viewed as a stand alone hazard in this plan, there will be detailed discussions of the potential impact of climate change on those applicable hazards of concern.*

Question: How will my jurisdiction benefit by participating?

Answer: *By participating in this planning effort and adopting the updated plan, your community will be eligible to pursue funding under any of the five (5) FEMA hazard mitigation grant programs. These programs provide millions of dollars worth of grant funding annually for risk reduction measures identified in these plans. Additionally, if your community participates in FEMA's Community Rating System (CRS) program, this plan may have direct impact on reducing the cost of flood insurance within your community.*

Question: Does it cost my jurisdiction anything to produce this plan?

Answer: *Seventy five percent of the cost associated with the preparation of this plan is being provided by a FEMA Hazard Mitigation Planning grant. The remaining 25% of the cost is an "in-kind" contribution from the planning team and the planning partners this plan will cover. "In-kind" contribution means non-monetary contributions such as: staff time, facilities, printing cost, etc.*

Question: When will the plan be finished?

Answer: *It is anticipated that this plan update process will take seven to nine (7-9) months to complete, at which time it will be submitted to Washington State Emergency Management Division and FEMA for their review and approval. This schedule is contingent upon many factors that can impact schedule and timeline. The timeline for submittal will be continuously updated throughout the process as planning milestones are completed.*

TAB - G

TAB - H

AGREEMENT

This Agreement made and entered into this 1st day of, January 2017, by Grays Harbor County, a political subdivision of the State of Washington, hereinafter referred to as "County", and the City of McCleary, hereinafter referred to as "City."

WHEREAS, this Agreement is authorized under Chapter 39.34 RCW authorizing the County to furnish those public works resources and services requested by the City that the County agrees to perform;

WHEREAS, it is necessary and desirable that this Agreement be executed for the performance of various public works projects, with the intent to supplement, not supplant City personnel.

NOW, THEREFORE, it is hereby agreed by each party to this Agreement as follows:

1. The City requests that the County perform various public works projects at a time and in a manner convenient to the County. The City further requests that work be completed no later than December 31, 2021, provided that this Agreement may be terminated either upon written agreement by both parties at any time or upon either party's providing thirty (30) days written notice of termination to the other. This Agreement shall take effect upon signature of both parties. The City hereby guarantees reimbursement to the County for all work completed as requested by the City. The County agrees to furnish necessary personnel, equipment, or materials requested by the City to complete applicable projects.
2. It is hereby understood that the County will be reimbursed by the City for all labor, equipment, materials and other related expenses as applicable, including loss or damage to equipment, at its adopted and usual customary rates. The County shall submit a certified itemized voucher of costs to the City within thirty (30) days after completion of work. Unless otherwise agreed, the City shall pay the submitted voucher amount in full to the County within thirty (30) days of receipt.
3. The County shall have no responsibilities or incur any liabilities because it does not provide resources and/or services to the City. The County shall retain the right to withdraw some or all of its resources at any time. Notice of intention to withdraw shall be communicated to the City as soon as practicable.
4. All privileges, immunities, rights, duties and benefits of officers and employees of the County shall apply while those officers and employees are performing functions and duties on behalf of the City, unless otherwise provided by law. Employees of the County remain employees of the County while performing functions and duties on behalf of the City.
5. Each party hereunder assumes liability for all acts, errors or omissions by its own officers, officials, and employees of whatever kind and nature from whatever cause, arising out of or connected with the performance of this Agreement, and shall indemnify and hold the other party and its officers, officials and employees harmless from any such liability, claim, or cause of action, including financial amounts arising out of the performance of this Agreement by that party's officers, officials, and employees. The duty created under this section shall include the duty to assume the defense of any claim arising from a party's activities under this Agreement. This responsibility shall include indemnifying the other party for any and all monies it may reasonably and necessarily expend in defending any such claim or for resolving such claim. In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the parties, their officers, officials, employees, and volunteers, then each party's liability hereunder shall be only to the extent of the party's negligence. It is further understood and agreed that the indemnification provided herein specifically includes each party's express waiver of immunity under The Industrial Insurance Act, Title 51 RCW, solely for the purposes of

this indemnification. This waiver of immunity has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- 6. It is understood and agreed that this Agreement cannot be assigned, transferred, or any portion subcontracted hereunder by the County without the prior written permission of the City. This Agreement is for the benefit of the County and City only and no other person or entity shall have any rights whatsoever under this Agreement as a third party beneficiary.
- 7. The County, in the performance of work under this contract, shall abide by the provisions of RCW 35.77.020, .030 & .040, RCW 39.34 & RCW 36.75.20, as applicable, and WAC 136.32 (RCW 35.77.020 requires adoption of this agreement by Resolution of the Board of County Commissioners in the case of work on city streets.)
- 8. In the event that any provision of this Agreement is declared invalid or illegal, such declaration shall in no way affect or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
GRAYS HARBOR COUNTY, WASHINGTON

City of McCleary

Wes Cormier, Commissioner, District 1

Accepted & Approved this _____ day
_____, 2017.

Randy Ross, Commissioner, District 2

ATTEST: _____
City Clerk (When Applicable)

Vickie Raines, Commissioner, District 3

ATTEST: _____
Jenna Amsbury
Clerk of the Board

Approved/Recommended:

Robert Wilson, PE
County Engineer

NOTE: All requests shall be made in writing to the Department of Public Services, 100 West Broadway, Suite 31, Montesano, WA. 98563

TAB - I

ORDINANCE NO. _____

AN ORDINANCE RELATING TO THE ESTABLISHMENT OF THE REGULAR TAX LEVY FOR THE YEAR 2017 FOR COLLECTION IN THE YEAR 2018; MAKING FINDINGS; AND RESERVING RIGHTS.

R E C I T A L S:

1. The City Council of the City of McCleary has met and is considering its budget for the calendar year 2017.

2. At a public hearing held on September 27, the City Council provided the opportunity to receive comment from the Citizens of the City on the elements of revenue projections and the ad valorem tax levy. Following that hearing, the Mayor and Council are going forward with the consideration of the City's budget.

3. Based upon the information provided by the Office of the County Assessor, the City's actual annual ad valorem levy amount received in 2017, including adjustments for new construction and other items, was \$_____. That included moneys received through the Council's exercise in 2016 of the authority to "relevy the levy" granted by law, tax revenue which would otherwise not have collected as the result of senior citizen exclusions and the like.

4. As to new construction valuation, the information from the Office of the County Assessor has not been provided. No property was shown as annexed during the period.

5. The City has a population of less than 10,000 citizens.

6. The City Council of the City of McCleary, following the required public hearing and after duly considering all relevant evidence and testimony presented, has determined the City of McCleary will exercise its authority to increase the regular tax levy by the authorized one percent.

7. The action carried forth by the Ordinance is based upon a Council finding there is a significant necessity for the property tax revenue to be increased in the next calendar year in order to meet the expenses and obligations of the City.

8. In adopting this ordinance, the City is relying upon the accuracy and completeness of the information provided to it by the Office of the County Assessor.

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

SECTION I: The regular property tax levy is hereby authorized for 2017 for collection in 2018 in an amount of \$ _____, a figure which the Office of the County Assessor has indicated represents the increase allowed by RCW 84.55.0101 from the amount levied and collected the previous year: PROVIDED THAT, it is to be recognized as follows: [a] the intent of this

ordinance is to exercise the authority to increase the levy here in question by the 1 percent allowed under the provisions of RCW 84.55 and to include additional revenue resulting from assessment of any new construction, improvements to property, any increase in the value of state assessed property or utilities, any annexations which have occurred, or any refunds made and [b] if the amount finally determined allowed under those provisions is greater than the specific figure set out, that newly determined figure shall be the amount utilized.

SECTION II: This ordinance is based upon the information from the Office of the County Assessor as to amounts and calculations, as well as advice from County officials that this ordinance can be amended to modify the tax rate established herein by adoption of an appropriate amendatory ordinance. The City specifically reserves the right to take such amendatory action up to and including the last day allowed.

SECTION III: Upon execution by the Mayor, a certified copy of this Ordinance shall be provided to the appropriate officials of the County so as to provide for appropriate assessment.

SECTION IV: 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 V: This Ordinance shall take effect upon the fifth day following date of publication.

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:

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON)
 : ss.
GRAYS HARBOR COUNTY)

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

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

WENDY COLLINS

SIGNED AND SWORN to before me this _____ day of _____, 2017, by WENDY COLLINS.

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

TAB - J

ORDINANCE NO. _____

AN ORDINANCE RELATING TO PUBLIC SAFETY;
REGULATING THE SALE AND USE OF CONSUMER
FIREWORKS; EXERCISING THE DISCRETION
PROVIDED BY APPLICABLE LAW; ADDING NEW
SECTIONS TO CHAPTER 8.04 OF MUNICIPAL CODE;
REPEALING SECTIONS 8.04.010 and 8.04.020 OF
THE MUNICIPAL CODE; PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE.

R E C I T A L S:

1. The Legislature has preempted the area of the regulation of the sale, possession, and use of fireworks, as defined in Chapter RCW 70.77. In furtherance of that preemption, state law establishes the limits under which consumer fireworks are sold and utilized subject to limited local authority.

2. The City wishes to balance the interests of the citizens in exercising their rights under the provisions of RCW 70.77 in terms of discharging lawful fireworks and the interests of its citizens in protecting life and property.

3. It is found appropriate and in the public interest to grant to the Fire Chief or his or her designee the discretionary authority set forth in the following paragraphs.

4. In recognition of the preemption, it is deemed appropriate to grant certain authority to the Fire Chief, provide for an appeal process, and to modify the dates within which fireworks may be discharged within the City.

5. It is recognized that pursuant to the limitations imposed by RCW 70.77.250[4], the modification of authorized dates upon which fireworks may be lawfully discharged may not go into effect until one year after the date of adoption of this ordinance. Thus, the provisions of this ordinance shall be interpreted subject to that limitation and such other limitations upon local regulation as may be imposed by that Chapter.

6. In recognition of these factors, it is found to update the City's existing code provisions which have not been modified since 1992.

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

SECTION I: Periods of Authorized Use or Sale:

It shall be unlawful to sell or discharge consumer fireworks, as that term is defined in RCW Chapter 70.77, as now existing or hereafter amended or succeeded except within such time periods as may be set by the provisions of RCW 70.77 RCW or this Chapter, whichever period shall be more restrictive, PROVIDED THAT, the discharge of such fireworks shall not be allowed during any period other than upon July 3rd, July 4th, December 31st, and January 1st of the calendar year within the hours authorized by the provisions of RCW 70.77.395 for such days: PROVIDED THAT nothing in this chapter shall be construed to prohibit public displays of fireworks by amusement parks, municipalities, fair associations, and other persons,

organizations or groups of individuals where such displays are authorized by permits issued by the State official authorized to issue such permits, when and if required by state law, or by permit issued by the Fire Chief of the City or his or her designee.

SECTION II: Ability to Suspend Use of Fireworks:

During periods of extreme fire danger, the Fire Chief or his or her designee may prohibit the discharge of all fireworks: PROVIDED THAT, in the event the Fire Chief is unavailable and no written designation of a designee has been made, the Police Chief or her or his designee shall have this authority.

For purposes of deciding whether or not this condition exists, the decision will be based upon review of appropriate factors, which may include, but is not limited to information, the status of weather conditions of the recent past and as forecast, information from State agencies, including the Office of the State Fire Marshall and Department of Natural Resources, and consultation with staff of other fire departments or districts in the County.

SECTION III: Appeal Process:

Any appeal of any decision made by the designated official or the City Council pursuant to the provisions of this Chapter shall be taken under the provisions of Part V of the

Administrative Procedures Act, as now existing or hereafter amended or succeeded.

SECTION IV: Applicable Provisions

A. For purposes of interpretation, implementation, and enforcement, the provisions of Chapter 8.04 and any other provision of the Municipal Code is intended to augment RCW Chapter 70.77, as now existing or hereafter amended or succeeded, and any provision of the Washington Administrative Code Chapter 212-17 (the WAC) issued pursuant to the authority granted in RCW Chapter 70.77, each of which shall be deemed to have been adopted by reference to the extent not inconsistent with the provisions of this Chapter, and shall be construed in connection with that law and any and all rules or regulations issued pursuant thereto.

B. This implementation shall include the application of and compliance with the following:

1. As to retail sales, the provisions of RCW Sections 70.77.255, 70.77.260, 70.77.265, & 70.77.270, each as now existing or hereafter amended or succeeded.

2. As to public displays, the provisions of RCW 70.77.280, 70.77.285, 70.77.290, & 70.77.295, each as currently existing or hereafter amended or succeeded.

SECTION V: Enforcement

Enforcement and implementation of this Chapter shall be as follows:

A. The fire chief of the City or his or her duly authorized representative is designated as one of the enforcing officers of this chapter. In addition to criminal sanctions or civil remedies which may be imposed, the Fire Chief or his or her designee shall have the authority to suspend or revoke by written notification setting forth the bases for such action any license whenever a licensee has violated any provision of this chapter or provision of RCW 70.77 or WAC Chapter 212-17 chapter. Any licensee the license of which has been revoked or suspended shall have a right to appeal this suspension as provided in Section III.

B. The Police Chief or any officer of the Police Department is authorized to enforce all provisions of this chapter, including issuance of citations or notices of infractions for violation of this chapter or any provision of RCW 70.77 or any WAC adopted pursuant thereto.

SECTION VI: Penalty for Violation of Chapter

Any person who violates or knowingly or intentionally fails to comply with any provisions of this chapter shall be deemed to have committed an infraction. Upon a finding of committed, the person shall be subject to a penalty of up to \$250.00 for the first violation during any six month period and up to \$500.00 for the second and succeeding violations found to have been committed within that six month period.

SECTION VII: Codification:

A. Sections I, II, III, IV, V and VI shall constitute new sections in Chapter 8.04 of the Municipal Code.

B. Sections 8.04.010 and 8.04.020 MMC shall be and are hereby repealed upon the effective dates of their replacement sections contained in this ordinance.

SECTION VIII: 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 IX: Effective Date:

This ordinance shall go into effect five days after the publication of the synopsis thereof: PROVIDED THAT, any date regulating the use of consumer fireworks shall go into effect upon the first day allowed by the provisions of RCW 77.250[4].

SECTION X: 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 _____, 2016, by the City Council of the City of McCleary, and signed in approval therewith this _____ day of _____, 2016.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON)

: ss.

GRAYS HARBOR COUNTY)

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number _____ and that said publication was done in the manner required by law. I further certify that a true and correct copy of the summary of Ordinance Number _____, as it was published, is on file in the appropriate records of the City of McCleary.

WENDY COLLINS

SIGNED AND SWORN to before me this _____ day of _____, 2016, by WENDY COLLINS.

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