



McCleary City Council Agenda

March 23rd, 2016- 7:00 PM

Flag Salute

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

Public Hearings

Public Comment

Executive Session

Minutes	Tab A Approval	Introduction	X Action	X
Approval of Vouchers		Introduction	X Action	X

Mayor Comments Summer Schedule, Connection Fees

Staff Reports **Tab B** Dan Glenn
Tab C Todd Baun

Old Business **Tab D** Pole Attachment Agreement Tabled

New Business	Tab E Golf Cart Discussion	Introduction	X Action	
	Tab F 4056-DR-WA Grant Extension Amendment A	Introduction	X Action	X
	Tab G Fire Lane/Access to North side of Park	Introduction	X Action	
	Tab H Jon Hinton- Update of City Projects	Introduction	X Action	

Ordinances **Tab I** Marijuana Production- Ver. 1/2/3 Introduction **X** Action **X**

Resolutions **Tab J** MRSC Funding Resolution Introduction **X** Action **X**

Mayor Council Comments

Public Comments

Executive Session

Adjournment or Recess Meeting

Please turn off Cell Phones- Thank you
Americans with Disabilities Act (ADA) Accomodation is Provided Upon Request
The City of McCleary is an equal opportunity provider and employer.

Wendy Collins swore Dustin Richey in and he took his place at the Council table.

DIRECTOR OF PUBLIC WORKS
REPORT

Todd Baun provided pictures of the Summit Road water main line break that happened last week. He said the city crew did a great job with the resources we had and were successful in repairing it. He also thanked Lori Ann, Lindsay and Wendy in the front office for taking every phone call and then later calling everyone back, that called into the City, to let them know things were fixed and their water was available. Todd stated it is nice to have a city crew and team that works so well together. Mayor Schiller agreed that he was happy with how well the staff worked together to get things fixed and to notify the customers.

STAFF REPORTS

Pam Ator liked the staff report from Paul Nott and asked to read a section of it to the audience. She said he gave a good explanation in response to recent remarks made on social media. Mr. Nott offered to anyone that has questions regarding their power bill, to contact him. He and his crew will be more than happy to come out and check to see if they can assist in discovering why the charges increased.

ELECTRICAL RATE STUDY
CONTRACT

Todd asked the Council what services they want to have FCS Group perform a rate study on. They could do only the electrical, however, FCS made an offer of a very low rate to perform a rate study for electrical, including pole attachment charges, along with water and sewer fiscal health. After discussion, the Council believed the total package offer would be the most value for the dollar. **It was moved by Councilmember Ator, seconded by Councilmember Peterson to authorize the Mayor to sign option #4 for electrical rate study including pole attachment charges and water and sewer fiscal health review in the amount of \$40,909.00. Motion Carried 5-0.**

POLE ATTACHMENT
AGREEMENT

Tabled.

GRAY & OSBORNE
INTRODUCTION AND REVIEW
OF CITY PROJECTS

Tabled.

MARIJUANA PRODUCTION
ORDINANCE

Councilmember Blankenship made a motion to keep the moratorium in place. He spoke with the City of Elma and they are disappointed in the revenue they anticipated. They only get 1% of the final sales tax generated. He said, for example, if a marijuana business makes one million dollars a year and is subject to 9% sales tax, the city will only receive \$900 a year in revenue. Dan Glenn confirmed it is not a big revenue generator. Mayor Schiller added that it would be a major cost to have someone come in and build a marijuana business. He doesn't believe it will be a big impact because of the high cost to get it started. Helen Hamilton heard that some of the growers have problems with odor. She thinks it might be a good idea to wait and see how the grower in Elma handles the odor because it has negatively impacted the homes in the area.

Dan Glenn pointed out in the draft referencing C-1, the odor and waste has to be controlled and can't just be put in a dumpster. Dan said he could prepare a third draft to address the C-1 approach by changing the language from a "permitted" use to a "conditional" use. This would have to go through the Hearing Examiner so he could look at each situation and make his recommendation.

Councilmember Ator motioned to have Dan Glenn write up a conditional use in C-2 and bring it back to the Council. Councilmember Peterson seconded. Dan Glenn does not need formal motion for action so the motion can be removed from the table. He will prepare a C draft for the next meeting.

Councilmember Blankenship withdrew his motion to keep the moratorium. The subject is tabled until the next meeting.

EXECUTIVE SESSION

None.

PUBLIC COMMENT

None.

MEETING ADJOURNED

It was moved by Councilmember Peterson, seconded by Councilmember Ator to adjourn the meeting at 8:10 pm. The next meeting will be Wednesday, March 23, 2016 at 7:00 pm. Motion Carried 5-0.

Approved by Mayor Brent Schiller and Clerk-Treasurer Wendy Collins.

MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary
FROM: DANIEL O. GLENN, City Attorney
DATE: March 18, 2016
RE: LEGAL ACTIVITIES as of MARCH 23, 2016

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. **POLE ATTACHMENT/CONNECTION AGREEMENT**: I will be providing to Paul and Todd the most recent and proposed final draft of the agreement the PUD and the City would utilize to govern placement of attachments upon their respective poles. As I have previously commented, it is my opinion there is a benefit to all parties to have a consistency in terms and conditions since the jurisdictions overlap as do the users. After the review by Todd and Paul, it will be back before you for consideration.

Concurrently, I will be providing for your review temporary updates to the ordinances/resolutions currently in place governing the rates for connection. It is anticipated that the rates will be subject to review after the receipt of the recommendations which will be contained within the rate study report to be provided by the consultant.

2. **LEGISLATION**:

A. **Public Records**: It appears that none of the legislation which would have made the party making a request more responsible for clarity and assumption of costs was

passed by the Legislature. Thus, in my opinion, the City and its citizens will remain subject to bearing the cost of responding to requests, some of which have been and will likely continue to be made for purposes not within the intent of the Legislature in its original adoption. However, the reality is we will have to continue to respond to requests, regardless of their source or potential purpose.

B. MRSC Funding Issue: There has been prior discussion and action in terms of the Senate's version of the new state budget which would effectively defund the operations of the Municipal Research & Services Center. The Mayor set forth the concerns in a letter to your elected legislators. Although the regular session has ended, the budgetary process continues in a special session. It appears the Senate did not change its position. As I have commented to Elma's elected officials, I find the position somewhat ironic since the Legislature has no problem funding an extensive staff to provide it with information on matters presented to it, but appears to have current difficulty seeing that need for and benefit from such funding for MRSC.

Thus, I am recommending an even more formal approach through the adoption of a resolution which would set out in some detail the benefits which the City and so many other municipal entities receive from the existence of MRSC. By the time of this meeting, the Elma Council and Mayor will also have considered its adoption. I have provided the draft to Ms. Collins for provision to the six of you for your review and consideration.

C. General Funding Actions: If I interpret the material received from AWC correctly, certain of the proposed budgetary actions will redirect moneys currently placed in a fund from which disbursements may be received by cities such as McCleary to the general use of the State government. One example given was the effective termination of the funding of the Public Works Trust Fund. It will be interesting to see the final effects upon the local government of the budgeting decisions made by the Legislature.

3. ZONING TEXT AMENDMENT ORDINANCE: I have prepared and provided a "C" version of the ordinance which has been under your review in relation to the cannabis commercial

growing and processing activity. The only difference is that, rather than being a permitted use in the C-2 zone, it would be a conditional use. The effect would be to allow the hearing examiner to review the specific location and the potential impacts upon the surrounding area of such activities.

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

DG/le

STAFF REPORT

To: Mayor Schiller
From: Todd Baun, Director of Public Works
Date: March 18, 2016
Re: Current Non-Agenda Activity

City Council Tour

I believe that the City Council City Tour was a success. Please let me know if you would like any additional information about City facilities, equipment or vehicles.

City Wide Clean-Up

The City wide clean-up is scheduled for April 23rd from 8:00 am to 2:00 pm.

STAFF REPORT

To: Mayor and Council
From: Todd Baun- Director of Public Works
Date: March 18, 2016
Re: Golf Cart Discussion

The Chief has brought an issue that I believe we need guidance on.

We have had a few residents that would like to drive their golf carts on the roadway. In February of 2015 we passed Ordinance 807, which authorized certain wheeled all-terrain vehicles upon a public street, but a golf cart does not really fall under our Ordinance.

Under RCW 46.04.194, "Golf cart" means a gas-powered or electric-powered four-wheeled vehicle originally designed and manufactured for operation on a golf course for sporting purposes and has a speed attainable in one mile of not more than twenty miles per hour. A golf cart is not a nonhighway vehicle or off-road vehicle as defined in RCW [46.04.365](#).

One solution that the Chief brought up is creating a "Golf Cart Zone", which falls under RCW 46.08.175. I have attached the RCW for your review.

Action Requested:

Please discuss and give direction.

ORDINANCE NO. 807

AN ORDINANCE RELATING TO MOTOR VEHICLES, AUTHORIZING THE UTILIZATION OF CERTAIN WHEELED ALL-TERRAIN VEHICLES UPON CERTAIN STREETS OF THE CITY UNDER CERTAIN TERMS AND CONDITIONS, ADDING NEW SECTIONS TO CHAPTER 10 OF THE MUNICIPAL CODE AND IMPOSING PENALTIES FOR VIOLATION.

R E C I T A L S:

1. The Legislature, through the adoption of ESHB 1632 in 2013, authorized the operation of certain wheeled all-terrain vehicles upon public rights of way so long as the vehicles and their operators meet certain requirements.

2. Since that adoption, the provisions of that Act which were applicable to such activities have been incorporated into the Model Traffic Ordinance (MTO) by rule issued by the state agency having jurisdiction.

3. The City has adopted the MTO by reference, as well as any modifications therein. However, the provisions of the Bill specifically provided that, before the provisions allowing the use of such vehicles upon streets within the City, the Council and Mayor had to adopt an ordinance specifically authorizing such activity.

4. At its January 28th meeting, the Council discussed whether such utilization should be allowed. Chief Crumb has made available material which he has gathered upon this matter. After

review of written material provided by Chief Crumb and having considered the matter, including the potential implications, both positive and negative, of taking such an action, and having received limited public comment, the Council has determined it to be appropriate to allow such utilization upon streets within the City.

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

SECTION II: Incorporation of Provisions Into MTO: The incorporation into the City Code of the provisions of ESHB 1632, as now codified in Title RCW 46, relating to the definitions, equipment, and licensing requirements, operator requirements, and other provisions applicable to this matter is specifically ratified.

SECTION II: A. Operators meeting the requirements set forth in the applicable provisions of the MTO and licensing requirement established in sub-paragraph B of this Section may operate a wheeled all-terrain vehicle meeting the equipment and licensing requirements set forth in the Model Traffic Ordinance upon all public streets within the City other than any street having a speed limit greater than thirty-five miles per hour.

B. No person shall operate a wheeled all-terrain vehicle upon a public street pursuant to the provisions of this ordinance unless that person has been issued and is in possession of a valid driver's license.

SECTION III: Penalties:

A. Unless stated otherwise in any other applicable provision of the Municipal code, violation of any provisions of this ordinance is a traffic infraction, punishable as provided by the provisions of the Municipal Code; PROVIDED THAT, if the vehicle is operated in a negligent or reckless manner by the operator or the operator is in such a condition as to be subject to citation under the provisions of RCW 46.61.502 through RCW 46.61.540, inclusive, such citation may be issued and, upon conviction, the penalties provided therein shall be applied.

B. The parent or legal guardian of a minor who knowingly allows a minor who [1] is less than the age of 18 years and [2] does not possess the licensing required by the applicable provisions of this ordinance, including Section II, to operate a vehicle the use of which is authorized by this ordinance shall be deemed to have committed a traffic infraction and, upon a finding of committed, shall be subject to imposition of the fiscal penalty in the same amount to which the operator is subject.

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 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: Sections I, II, and III shall be codified as new sections in Chapter 10.04 of the Municipal Code, being the chapter providing for the adoption of the Model Traffic Ordinance.

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

SECTION VII: 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 25th DAY OF march, 2015, by the City Council of the City of McCleary, and signed in approval therewith this 25th day of march, 2015.

CITY OF McCLEARY:


D. GARY DENT, Mayor

ATTEST:

Wendy Collins
WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

Daniel O. Glenn
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
WENDY COLLINS

SIGNED AND SWORN to before me this 21st day of March, 2015, by WENDY COLLINS.



Lindsay Blumberg
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at: Grays Harbor
My appointment expires: May 6, 2017

SYNOPSIS OF ORDINANCE NO. 807

AN ORDINANCE RELATING TO MOTOR VEHICLES, AUTHORIZING THE UTILIZATION OF CERTAIN WHEELED ALL-TERRAIN VEHICLES UPON CERTAIN STREETS OF THE CITY UNDER CERTAIN TERMS AND CONDITIONS, ADDING NEW SECTIONS TO CHAPTER 10 OF THE MUNICIPAL CODE AND IMPOSING PENALTIES FOR VIOLATION.

On March 24, 2015, the City Council of the City of McCleary adopted Ordinance Number 807. The intent and purpose of the Ordinance was to authorize the operation of all-terrain vehicles equipped as required by the provisions of ESHB 1632, now codified in the Model Traffic Ordinance, upon public streets within the City under certain terms and conditions. Penalties for violation of the ordinance are set forth therein.

A complete copy of this Ordinance is available during regular business hours at the Office of the Clerk-Treasurer, City Hall, McCleary, Washington. The Ordinance will be made available for review without cost; a copy will be provided upon request without cost if such request is timely made. This Synopsis is published pursuant to the laws of the State of Washington.

DATED this 25th day of March, 2015.



WENDY COLLINS, Clerk-Treasurer

RCW 46.08.175**Golf cart zones.**

(1) The legislative authority of a city or county may by ordinance or resolution create a golf cart zone, for the purposes of permitting the incidental operation of golf carts, as defined in RCW **46.04.1945**, upon a street or highway of this state having a speed limit of twenty-five miles per hour or less.

(2) Every person operating a golf cart as authorized under this section is granted all rights and is subject to all duties applicable to the driver of a vehicle under chapter **46.61** RCW.

(3) Every person operating a golf cart as authorized under this section must be at least sixteen years of age and must have completed a driver education course or have previous experience driving as a licensed driver.

(4) A person who has a revoked license under RCW **46.20.285** may not operate a golf cart as authorized under this section.

(5) The legislative authority of a city or county may prohibit any person from operating a golf cart as authorized under this section at any time from a half hour after sunset to a half hour before sunrise.

(6) The legislative authority of a city or county may require a decal or other identifying device to be displayed on golf carts authorized on the streets and highways of this state under this section. The city or county may charge a fee for the decal or other identifying device.

(7) The legislative authority of a city or county may prohibit the operation of golf carts in designated bicycle lanes that are within a golf cart zone.

(8) Golf carts must be equipped with reflectors, seat belts, and rearview mirrors when operated upon streets and highways as authorized under this section.

(9) A city or county that creates a golf cart zone under this section must clearly identify the zone by placing signage at the beginning and end of the golf cart zone on a street or road that is part of the golf cart zone. The signage must be in compliance with the department of transportation's manual on uniform traffic control devices for streets and highways.

(10) Accidents that involve golf carts operated upon streets and highways as authorized under this section must be recorded and tracked in compliance with chapter **46.52** RCW. The accident report must indicate that a golf cart operating within a golf cart zone is involved in the accident.

[2010 c 217 § 4.]

STAFF REPORT

To: Mayor and Council
From: Todd Baun- Director of Public Works
Date: March 18, 2016
Re: 4056-DR-WA Grant Extension Amendment A

Attached please find your Amendment A, extending the grant performance period for disaster 4056-DR-WA, the January 14, 2012 to January 23, 2012 Washington Severe Winter Storm, Flooding, Landslides, and Mudslides Event. This Amendment A will extend the grant performance period from March 5, 2016 to March 5, 2018.

The time extension is needed so that federal government can complete the closeout process of this disaster, which the City received federal funds to repair damage during the 2012 snow event.

Action Requested:

Please allow Mayor to sign the Amendment

Washington State Military Department
AMENDMENT

1. APPLICANT NAME/ADDRESS: City of McCleary 100 S. 3rd Street McCleary, WA 98557-9652		2. GRANT NUMBER: D12-154	3. AMENDMENT NUMBER: A
4. APPLICANT CONTACT PERSON, NAME/TITLE: Todd Baun/Director of Public Works		5. MD STAFF CONTACT, NAME/TELEPHONE: Gerard Urbas, (253) 512-7402	
6. TIN or SSN: 91-6001456	7. CATALOG OF FEDERAL DOMESTIC ASST. (CFDA) #: 97.036 Public Assistance	8. FUNDING SOURCE NAME/AGREEMENT #: FEMA 4056-DR-WA	
9. FUNDING AUTHORITY: Washington State Military Department (Department) and Federal Emergency Management Agency (FEMA)			
10. DESCRIPTION/JUSTIFICATION OF AMENDMENT, MODIFICATION, OR CHANGE ORDER: Under the authority of Presidential Major Disaster Declaration FEMA 4056-DR-WA, the Department through its Public Assistance Program, is reimbursing the Applicant for those eligible costs and activities necessary for the repair and restoration of public facilities damaged during this disaster. Due to circumstances beyond the applicant's control, the repair and restoration to all of the damaged public facilities have not been completed. An extension of the period of performance is allowable under grant provisions.			
11. AMENDMENT TERMS AND CONDITIONS: 1. Change the grant expiration date from March 5, 2016 to March 5, 2018. No other changes are required. All other terms and conditions of the original grant and any previous amendments thereto remain in full force and effect.			
IN WITNESS WHEREOF, the Department and Applicant acknowledge and accept the terms of this grant amendment and attachments hereto and in witness whereof have executed this amendment as of the date and year written below. The rights and obligations of both parties to this grant are governed by this Grant Amendment Face Sheet and other documents incorporated herein by reference or attached and identified in the original grant agreement document. A copy of this grant agreement amendment shall be attached to and incorporated into the original agreement between the Department and the Applicant. Any reference in such grant agreement to the "grant agreement" shall mean "grant agreement as amended."			
IN WITNESS WHEREOF, the parties hereto have executed this amendment as of the date and year last written below:			
FOR THE DEPARTMENT:		FOR THE APPLICANT:	
_____ Signature Date Richard A. Woodruff Contracts Administrator Washington State Military Department		_____ Signature Date print or type name:_____	
BOILERPLATE APPROVED AS TO FORM:		APPROVED AS TO FORM:	
Brian E. Buchholz (signature on file) 3/12/2010 Assistant Attorney General		_____ Applicant's Legal Review Date	

Form Date: 10/27/00

STAFF REPORT

To: Mayor and Council
From: Todd Baun- Director of Public Works
Date: March 18, 2016
Re: Fire Lane/Access to North side of Park

After research into the access issue at the North side of the park and Rainbow Park Apartments, I can find no documentation that shows the access area as a fire lane. What I have found is that section of the park is an unimproved right of way, which has a sewer line that in it.

We also have rules and regulations for the park and cemetery which are outlined in Ordinance 773 (attached). Here is the section that deals with Vehicle and animal use restricted.

1. It is unlawful to operate, ride, or drive any wheeled device, sled, vehicle, or animal over, across, or through any park or cemetery, except along designated paths, drives, or streets, provided however, motorized devices are restricted solely to streets, parking lots, and drives.
2. It is unlawful to operate, ride, or drive any wheeled device, vehicle, or animal at a speed in excess of five miles per hour in any park or cemetery unless a different speed limit is posted.
3. It is unlawful to stand or park any vehicle except where so designated and posted. It is unlawful to use or operate vehicles in any portion of a park devoted to skateboards.
4. No device, referred to generically as "toy wheels", shall be utilized in an area in which their use is specifically prohibited. For purposes of this section, a "toy wheel" shall include, but is not limited to, skateboards, roller blades, roller skates, scooters, bicycles, and similar wheeled devices.
5. The restrictions imposed pursuant this section shall not apply to such wheeled items as carriages for infants, children's wagons, and similar items nor, as to use in a park, to snow sleds intended for individual use so long as such utilization does not harm park property.

The direction that I'm requesting from the Council, is how you would like this area to be used? It is currently being used for parking, unloading/loading, and access to the park and residents of Rainbow Park. Do we want to make it a loading/unloading area with 30 minute parking? Do you want to make this a "Fire Lane", which allows parking for emergency vehicles only? Is there something else you would like to see.

Action Requested:

Please discuss and give direction

ORDINANCE NO. 773

AN ORDINANCE RELATING TO PARKS & CEMETERIES AS AMENDED; ESTABLISHING REGULATIONS; GRANTING AUTHORITY; ADDING NEW SECTIONS TO CHAPTER 12.16 MMC; IMPOSING PENALTIES; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

R E C I T A L S:

1. The City maintains a cemetery as well as a park and other recreational facilities for use by the citizens. It has also, in recent years, acquired additional property for potential use as a second park.

2. The Administrative Staff has reported to the Council that the operation of the system would benefit from the implementation of a formal set of regulations.

3. Staff have reviewed the materials and have recommended to the Council and Mayor that the provisions set out below be adopted.

4. During the course of the review, attempts have been made to update and insure consistency with the relevant portions of the provisions of the Municipal Code relating to activities within the City operated cemeteries. Also, it is the goal of this ordinance to integrate its provisions with the existing provisions of Chapter 12.16 of the Municipal Code.

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

SECTION 1: SIGN POSTING AND STRUCTURES PROHIBITED

Without the prior written consent of the Director of Public Works, hereinafter referred to in this ordinance as the Director, or his or her designee, the following acts are unlawful:

A. To place or erect any sign, board, billboard, or similar device of any kind in any park or cemetery.

B. To create, place, or erect any structure in any park or cemetery.

SECTION 2: DISTRIBUTION OF HANDBILLS

It is unlawful to exhibit or distribute any handbills, circulars, or signs in any park or cemetery in any manner that interferes with or obstructs the normal use of the park or cemetery or the normal passage of people or vehicles within or through the park or cemetery.

SECTION 3: STORAGE OF EQUIPMENT

Persons using parks should not expect storage space for equipment necessary for their activity. Any user desiring to store equipment, supplies, or material of any type or kind on a park site shall obtain the written approval of the Director in advance. If temporary storage is allowed with the permission of the Director, the City shall not be responsible for loss or damage to the equipment or property stored.

SECTION 4: REMOVAL, ALTERATION, OR DESTRUCTION OF PARK OR CEMETERY PROPERTY PROHIBITED:

4.1 It is unlawful to remove, destroy, mutilate, or deface any structure, monument, wall, fence, railing, bench, shrub, tree, lawn, grass, plant, flower, lighting system, or sprinkling system, or any other property or thing lawfully in any park or cemetery.

4.2 No physical alteration, whether in the form of additions, modifications, or removal, to the park or cemetery or other facility covered under the provisions of this ordinance or any improvements located therein shall be done without the prior written approval of the City, acting by and through the Director of Public Works or such other official as may be designated by the Mayor.

4.3 No foreign matter of any sort (including without limitation such materials as sawdust or sand) may be added to any field for any reason without the prior written consent of the Director.

SECTION 5: ANIMALS IN PARKS OR CEMETERIES

5.1. Dogs, pets, or domesticated animals are not permitted on any area covered by turf, whether natural or artificial, nor in or upon any picnic area, sport court, or inbounds play area in any park or cemetery nor in any park or cemetery structure unless specifically authorized by posting or

by special permission given in writing by the Director. This section shall apply neither to animal guides nor service animals.

5.2. Dogs and other pets or domesticated animals shall be kept on a leash and under control at all times unless otherwise posted.

5.3. Any person whose dog or other domesticated animal is in any park or cemetery shall be responsible for the conduct of the animal and shall promptly remove and properly dispose of all animal waste deposited by such animal.

5.4. No person shall allow his or her dog or other pet or domesticated animal to commit any of the following acts:

A. to bite, disturb, or harass any park or cemetery user, wildlife, or other animals.

B. to bark or make noise continuously or with such frequency or volume as to disturb the peace and tranquillity of the park or cemetery.

C. to damage, destroy or remove park or cemetery vegetation.

SECTION 6: HORSES & OTHER QUADRUPEDS PROHIBITED

Horses and other quadrupeds are not permitted in any park or cemetery at any time except with the written permission of the Director or within areas specifically designated for such use.

SECTION 7: SELLING REFRESHMENTS OR MERCHANDISE PROHIBITED

It is unlawful to sell refreshments, merchandise, or any other thing in any park or cemetery without the prior written consent of the Director or without a valid concession contract with the City and being the holder of such other licenses and permits as are required by any applicable state law or city ordinance.

SECTION 8: SOLICITING PROHIBITED

Except as may be specifically provided by law, no person shall solicit contributions for himself or others in any park or cemetery.

SECTION 9: USE BY GROUPS OR ASSEMBLIES

Parks and associated facilities shall be available for any person, group, or assembly on a first come, first served basis, subject to priority use through a supplemental park permit issued by the Director or for classes, special events, public forums, or athletic programs as determined by the Director.

SECTION 10: VEHICLE AND ANIMAL USE RESTRICTED

10.1. It is unlawful to operate, ride, or drive any wheeled device, sled, vehicle, or animal over, across, or through any park or cemetery, except along designated paths, drives, or streets, provided however, motorized devices are restricted solely to streets, parking lots, and drives.

10.2. It is unlawful to operate, ride, or drive any wheeled device, vehicle, or animal at a speed in excess of five

(5) miles per hour in any park or cemetery unless a different speed limit is posted.

10.3. It is unlawful to stand or park any vehicle except where so designated and posted. It is unlawful to use or operate vehicles in any portion of a park devoted to skateboards.

10.4. No device, referred to generically as "toy wheels", shall be utilized in an area in which their use is specifically prohibited. For purposes of this section, a "toy wheel" shall include, but is not limited to, skateboards, roller blades, roller skates, scooters, bicycles, and similar wheeled devices.

10.5. The restrictions imposed pursuant this section shall not apply to such wheeled items as carriages for infants, children's wagons, and similar items nor, as to use in a park, to snow sleds intended for individual use so long as such utilization does not harm park property.

SECTION 11: CAMPING PROHIBITED

It is unlawful to camp in any cemetery nor shall any camping be allowed in any park except at places within a park so designated and posted and with the prior written approval of the Director.

SECTION 12: GOLF PROHIBITED

Golf activities shall not be permitted in any cemetery nor in any park unless a supplemental park permit or the written

consent of the Director is obtained prior to commencement of the activity.

SECTION 13: ENDANGERING PERSONS OR PROPERTY PROHIBITED

It is unlawful to knowingly hurl or propel any object or to take any physical action in any park or cemetery which endangers or is likely to endanger any persons or property or interfere with park or cemetery purposes: PROVIDED THAT, this prohibition shall not apply if such action occurs as an anticipated element of any authorized event. This shall include baseball games, soccer games, and similar events.

SECTION 14: FIRES PROHIBITED

It is unlawful to build or have any fire in any cemetery or in any park except where so designated and posted. Appliances such as portable grills, barbecues, or hibachis are permitted in parks so long as they do not otherwise violate any section of this ordinance nor any chapter of the Municipal Code. In recognition of the possible hazard resulting from such action, no ash or similar by-product resulting from the permitted use of such an appliance shall be deposited in any garbage receptacle maintained within a park or cemetery nor otherwise disposed of within a park or cemetery.

SECTION 15: FIREWORKS PROHIBITED

It is unlawful in any park or cemetery to use, exhibit, display, or possess any fireworks or common fireworks as those terms are defined in the Municipal Code unless authorized by the

Director and so long as any necessary permit has been obtained from all governmental agencies having jurisdiction over such actions.

SECTION 16: SOUND-AMPLIFYING DEVICES

16.1. Except as authorized by use agreement or by the prior written permission of the Director, or except as necessary for the preservation of public peace or safety, it is unlawful to use any public address system, loudspeaker, or other sound amplifying device in any park or cemetery other than in compliance with §16.2 of this Section. This section shall not apply to such instruments utilized during the ordinary course of a funeral ceremony.

16.2. Unless operated by a user during the course of an activity of which the Director has authorized such use, no person shall use, operate, or play in any park a radio, tape player, disc player, television, musical instrument, record player, or any other machine or device capable of producing sound (1) without the use of headphones or a similar personal listening device or (2) at a volume level where discernible noise can be heard more than ten feet from the device or (3) in such a manner as violates any other provision of the Municipal Code.

SECTION 17: INTOXICATING LIQUOR PROHIBITED

It is unlawful to possess a container of any alcoholic beverage, whether opened or unopened, while in any park or cemetery or in any publicly owned parking area associated with a

park or cemetery. For purposes of this section, possession means having a container within one's immediate reach or control and not secured in a location such as a vehicle's trunk or storage compartment.

SECTION 18: LITTERING -- TRASH DEPOSIT

It is unlawful to commit any of the following acts:

A. throw or deposit any refuse or other material in any park or cemetery, including, but not limited to, any artificial surfaces, play fields, or picnic areas, except in designated receptacles; or

B. to take garbage or refuse to a park or cemetery for disposal; or

C. to deposit garbage or refuse generated outside a park or cemetery in a receptacle provided for deposit of trash by the public using the park or cemetery or in any publicly owned parking area associated with a park or cemetery.

D. to violate the provisions of Section 14 by the deposit of any ash or similar by-product in any receptacle.

SECTION 19: PARK OR CEMETERY HOURS, AREAS OF RESTRICTED OCCUPANCY, & RIGHT TO PROHIBIT CONTINUED USE

19.1. Park or cemeteries are open to the public daily from 6:30 a.m. to 10:00 p.m. unless other hours are posted at the entrances to a park or cemetery.

19.2. The Director shall have the following authority:

A. To make and enforce special park or cemetery closure hours for specific areas within them if the Director determines that such special closure hours are necessary or appropriate to protect public property or public safety, to prevent public nuisances, or to prevent breaches of the peace.

B. In the Director's sole discretion, to permit special hours of utilization by written authorization in the course of utilization for special events, sport leagues, and tournaments so long as the applicant submits a written request no less than one week prior to the intended date or dates of utilization. The request shall contain such information as may be required by the Director. If the Director authorizes the utilization, it shall be the responsibility of the applicant to provide written notice of such authorization to each residence which abuts the park or cemetery to be utilized. If the residence is an apartment building, notification to the manager of the building shall be deemed adequate notice.

19.3. It is unlawful for any person to enter or remain in a closed park or cemetery unless permitted and authorized in advance by the Director.

19.4. No person except an authorized City employee or other person duly authorized pursuant to law shall enter or go upon or into any park or cemetery area which has been posted as a "No Admittance" or "No Trespassing" area, or at a time a park or cemetery is closed to the public.

19.5. The misuse of a park or cemetery facility, the failure to conform with any of the provisions of this ordinance, or the failure or refusal to comply with the directions of City employees shall be good cause for requiring the individual to exit the park or cemetery and to prohibit the individual from reentering the park or cemetery in the future.

19.6. Any person violating this section is guilty of a misdemeanor and upon conviction shall be subject to punishment as provided in Section 21 of this ordinance.

SECTION 20: SKATEBOARD PARK AREAS

To the extent that any area of a park is now or may hereafter be devoted to skateboards, its use shall be governed by rules promulgated by the Director, and as may be posted at the entrance to the skateboard area. A violation of any such rules, whether or not posted, shall be a violation of this chapter.

SECTION 21: USER'S FAILURE TO FOLLOW PARK OR CEMETERY RULES - PENALTIES & PROHIBITION FROM REENTRY

21.1. Fiscal Penalties: Any violation of or any failure to comply with any of the provisions of this ordinance which is not defined as a criminal law violation by the municipal code or state law and for which no penalty is otherwise specified by the municipal code or state law shall constitute a civil infraction as contemplated by RCW 7.80.120. Any person found to have committed such a violation may be punished by a civil fine

or forfeiture in any sum not exceeding \$250.00. The following penalties shall apply:

A. Initial Infraction within any twenty-four calendar month period: Monetary penalty of Fifty Dollars (\$50.00);

B. Second Infraction within any twenty-four calendar month period: Monetary penalty of One Hundred Dollars (\$100.00);

C. Third Infraction within any twenty-four calendar month period: Monetary penalty of One Hundred Fifty Dollars (\$150.00);

D. Fourth & subsequent violation within any twenty-four calendar month period: Monetary penalty of Two Hundred Fifty Dollars (\$250.00).

21.2. Prohibition From Reentry:

A. Any person who is either sentenced pursuant to 21.1.D of this section or who, regardless of the violator's prior history, is found by the Director to have committed an act or acts which created or resulted in an unreasonable risk to safety of persons or property may be forbidden from reentering the premises of a park or cemetery or its associated public parking areas. The written order prohibiting reentry shall set forth in reasonable detail the reasons for the prohibition and may be for such period as the Director deems appropriate and shall be served upon the violator. In the event that attempts to serve the order are unsuccessful, a record of the efforts shall be maintained in the records of the City and the name of the individual may be

posted at the entry of the City's parks or cemetery upon a document setting forth a listing of any individual subject to such order.

B. Any person who is the subject of an order issued pursuant to §§21.2 shall have the right to appeal that order to the City Council in writing within ten (10) calendar days of the service of the order upon the person. The notice of appeal shall be filed in the Office of the Clerk-treasurer and set forth the name and contact information for the appellant, as well the grounds for the appeal. The Council, after giving written notice to the individual at the address provided in the notice of appeal, shall set a date upon which the appeal shall be heard. The Council may hear such testimony and accept such exhibits as it deems appropriate and issue a written decision with findings. That decision shall be final.

By written resolution, the Council may delegate the duty and authority it possesses under this sub-paragraph to the Hearing Examiner.

SECTION 22: The Director shall be and is hereby authorized to promulgate such written rules and regulations as may be deemed reasonably necessary and appropriate to implement and administer the provisions of this ordinance. Prior to its effectiveness, any proposed rule or regulation shall be submitted to the City Council and Mayor for review. To the extent not disapproved, such rule or regulation shall go into effect upon

the thirtieth day following the first Council Meeting at which they are presented to the Mayor and Council in a written form: PROVIDED that the Council specifically reserves to itself the right (a) to suspend such proposed rule or regulation, (b) authorize its immediate effectiveness, or (c) reject, modify, or supplement such proposed regulations.

SECTION 23: For purposes of this ordinance, the following definitions shall apply:

A. Park: Any land, whether with or without improvements, owned by the City and made available to the public for recreational uses.

B. Cemetery: Any property owned by the City and meeting one, or a combination of more than one, of the following criteria, in a place used, or intended to be used for the placement of human remains and dedicated, for cemetery purposes:

- (a) A burial park, for earth interments.
- (b) A mausoleum, for crypt interments.
- (c) A columbarium, for permanent niche interments; or
- (d) any burial site, burial grounds, or place where five or more human remains are buried.

Unless a cemetery is designated as a parcel of land identifiable and unique as a cemetery within the records of the county assessor, a cemetery's boundaries shall be a minimum of ten feet in any direction from any burials therein.

SECTION 24: Section 12.16.020 MMC and Section II, Ordinance 521 are each amended to read as follows:

When consent or authorization is required prior to the undertaking of an activity specified under the provisions of this ordinance (~~in Section 12.16.010~~), that consent or authorization shall be sought as follows:

A. A request shall be directed in writing to the Director of Public Works (~~Mayor~~), detailing with adequate specificity the activity sought to be permitted. Upon receipt of such a request, the designated official (~~mayor~~) shall undertake consideration as to the appropriateness of authorizing the activity. If in the (~~mayor's~~) designated official's opinion and discretion it is deemed necessary to obtain additional information, such request for information shall be responded to by the applicant. In making the determination, the designated official (~~mayor~~) shall consider such factors as may be deemed necessary and appropriate, including but not limited to the impact of the requested utilization upon the use by the facility by other citizens; the demands that may be placed upon public services by the anticipated activity; prior experience or history of the applicant in undertaking similar activities; prior history or experience of the city in the allowance of such similar activities; and such other factors relating to public health, safety, and welfare as may be articulated. The decision of the

designated official ((mayor)) shall be in writing and rendered in a reasonably timely manner after application.

B. If any person is aggrieved by the decision of the responsible official ((mayor)) whether to grant or deny a request, that person may appeal the decision of the responsible official ((mayor)) to the city council, which shall hear the matter at its next regular session or at such other time as it may deem appropriate. The council, after receiving such information as it deems necessary and appropriate, may either affirm, reverse, or modify the responsible official's ((mayor)) decision. The decision of the council shall be final.

SECTION 25: CODIFICATION: Sections 1 through 23 of this ordinance shall constitute new sections in Chapter 12.16 of the McCleary Municipal Code.

SECTION 26: 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 27: EFFECTIVE DATE:

This Ordinance shall take effect upon the fifth day following date of publication.

PASSED THIS 24th DAY OF AUGUST, 2011, by the City Council of the City of McCleary, and signed in approval therewith this 24th day of August, 2011.

CITY OF McCLEARY:



D. GARY DENT, Mayor

ATTEST:



WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

Dan Glenn

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 773 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 773, as it was published, is on file in the appropriate records of the City of McCleary.

Wendy Collins
WENDY COLLINS

SIGNED AND SWORN to before me this 29th day of August, 2011, by WENDY COLLINS.

Danette Joane Brannin

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at: Grays Harbor County
My appointment expires: 3/17/2015



SYNOPSIS OF ORDINANCE NO. 773

**AN ORDINANCE RELATING TO PARKS & CEMETERIES AS AMENDED;
ESTABLISHING REGULATIONS; GRANTING AUTHORITY; ADDING
NEW SECTIONS TO CHAPTER 12.16 MMC; IMPOSING PENALTIES;
AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

On August 24, 2011, the City Council of the City of McCleary adopted Ordinance Number 773. The intent and purpose of the Ordinance was adopt a more inclusive set of regulations and guidelines in relation to the use of the parks and cemeteries operated by the City. Provisions included regulating the use of both by visitors, setting forth conditions under which the Director of Public Works may issue rules, regulations, and permit, specifying actions which will be subject to sanctions, and authorizing the imposition of penalties for violation of the provisions.

A complete copy of this Ordinance is available during regular business hours at the Office of the Clerk-Treasurer, City Hall, McCleary, Washington. The Ordinance will be made available for review without cost; a copy will be provided upon request without cost if such request is timely made. This Synopsis is published pursuant to the laws of the State of Washington.

DATED this 30th day of August, 2011.



WENDY COLLINS, Clerk-Treasurer

RESOLUTION NO. _____

**A RESOLUTION STATING THE CITY'S
SUPPORT FOR THE LEGISLATURE TO INCLUDE
UNCONDITIONAL STATE FUNDING OF THE
MUNICIPAL RESEARCH AND SERVICES CENTER IN
THE BUDGET IT ADOPTS.**

R E C I T A L S:

1. For decades the Municipal Research and Services Center ("MRSC") has provided comprehensive and objective guidance on legal and policy issues to local governmental organizations, including counties, cities, and special purpose districts.

2. MRSC, through its staff and the many publications and research resources it makes available, has been a provider to the City of valuable assistance on a wide range of issues and subjects. The areas of assistance have included budgeting, public records, purchasing and contracting, governmental operations, statutory information and updates, financial management and reporting, and the development and maintenance of unified public works rosters.

3. On a continuing basis, the City's staff and elected officials have been able to obtain from MRSC advice, research, opinions and information, whether through direct contact with MRSC staff, through access to the resources on MRSC's website, or reviewing the publications provided by MRSC.

4. As a centralized resource, MRSC efficiently provides information and resources to hundreds of municipal bodies in this State. This not only saves public funds statewide, but also provides to small cities such as ours access to resources it could not otherwise afford to provide.

5. The current budget draft passed by the Senate proposes conditions for state funding of MRSC as it "investigates" whether contracts for such services should continue or be modified or terminated. Effectively, this would deprive the City and the other governmental bodies which benefit from the existence of MRSC of its important, useful, and valuable services.

6. Through their own access to the research and support staff maintained by the Legislature itself, the Members of the Legislature surely recognize the benefit of such services.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY, THE MAYOR SIGNING IN AUTHENTICATION THEREOF:

SECTION I: The Members of the City Council of the City of McCleary urge the Members of the Legislature to recognize the major benefits provided by MRSC to the citizens they serve and express their strong support of the continued full funding of MRSC from the state budget without conditions, now and in the future.

SECTION II: The Council authorizes the Mayor, either directly or through City staff, to take such actions as are deemed appropriate in accordance with the goal set forth in this resolution.

PASSED THIS _____ DAY OF _____, 2016, by the City Council of the City of McCleary, and signed in authentication thereof this _____ day of _____, 2016.

CITY OF McCLEARY:

BRENT SCHILLER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney