



**McCleary City Council
Agenda**

February 24th, 2016- 7:00 PM

Flag Salute

Roll Call: ___ Pos. 1- Orffer, ___ Pos. 2- , ___ 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 Council Position 2

Staff Reports	Tab B Dan Glenn
	Tab C Todd Baun

Old Business	Tab D Electrical Rate Study Contract	Tabled
	Tab E Pole Attachment Agreement	Tabled
	Tab F Support of HB 2576	Introduction X Action X

New Business	Tab G Connection Fee Adjustment	Introduction X Action X
	Tab H Adnets Server Virtualization Project	Introduction X Action X

Ordinances **Tab I** Marijuana Production Introduction **X** Action

Resolutions 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.

CITY OF MCCLEARY
Regular City Council Meeting
Wednesday, February 10, 2016

ROLL CALL AND FLAG SALUTE	Councilmember's Peterson, Blankenship and Ator were in attendance.
ABSENT	Councilmember Orffer was absent and asked to be excused. It was moved by Ator, seconded by Councilmember Blankenship to excuse Councilmember Orffer's absence. Motion Carried 3-0.
CHRIS VESSEY COUNCIL POSITION #2 RESIGNATION	Councilmember Chris Vessey submitted a letter of resignation due to unforeseen medical issues for his newly elected four-year term. He was very appreciative to have the honor of serving the community again. Mayor Schiller asked Wendy Collins to run the vacancy in the paper so interested residents could apply. Dan Glenn confirmed the appointment will be for a two-year term until the next general election.
STAFF PRESENT	Present at the meeting were Todd Baun, Wendy Collins, George Crumb, Paul Nott and Dan Glenn.
PUBLIC HEARING	None.
PUBLIC COMMENT	None.
EXECUTIVE SESSION	None.
MINUTES APPROVED	It was moved by Councilmember Ator, seconded by Councilmember Peterson to approve the January 27, 2016 minutes. Motion Carried 3-0.
CITY ATTORNEY REPORT	Dan Glenn will prepare an ordinance that will include the Hearing Examiners recommendations on marijuana manufacturing.
MAYOR'S COMMENTS	<p>Mayor Schiller met with the Finance Committee last Friday and it was very productive. The committee will begin meeting regularly prior to the Council meeting on the second Wednesday of the month.</p> <p>Mayor Schiller, along with available Councilmembers, staff and residents, also met last Friday with Greater Grays Harbor, Inc. and student interns that will be assisting the City on what McCleary wants to be for the future. They will be working with community members, Council and staff to come up with ideas for a vision and mission statement and what direction the City would like to go to bring business and build communities.</p> <p>The City-wide clean up is scheduled for April 23, 2016 from 8 am to 2 pm. All residents will be required to bring their most recent utility bill as proof of residency.</p>
DIRECTOR OF PUBLIC WORKS REPORT	Todd Baun provided a written report for the Council and is available, if they have any questions.
WITHDRAW ORDINANCE 816	Due to the repetition of a previous ordinance, Dan Glenn asked to have ordinance 816 be withdrawn from usage and available for the next ordinance presented to the Council. It was moved by Councilmember Ator, seconded by Councilmember Blankenship to withdraw Ordinance 816 and make it available for use for the next ordinance brought to Council. Motion Carried 3-0.
BUILDING OFFICIAL CONTRACT	It was moved by Councilmember Ator, seconded by Councilmember Peterson to authorize the Mayor to sign the contract with BHC Consultants for building official services, as presented to the Council. Motion Carried 3-0.
POLE ATTACHMENT AGREEMENT	Tabled.
ELECTRICAL RATE STUDY CONTRACT	Tabled.
MARIJUANA PRODUCTION	Tabled

RESOLUTION 682
STORMWATER RATE
INCREASE

After the Finance Committee recently met, a different rate increase for the storm water fund was presented, which would implement the increase gradually through December 2017. This will lessen the impact on the rate payers. **It was moved by Councilmember Ator, seconded by Councilmember Peterson to adopt Resolution 682 establishing rates and charges in relation to the storm water utility of the City; repealing Resolution 640; and providing an effective date. Resolution Adopted 3-0.**

APPROVAL OF VOUCHERS

Accounts Payable vouchers/checks approved were 40599 - 40636 including EFT's in the amount of \$255,133.45 and 40662 - 40697 including EFT's in the amount of \$37,945.49.

It was moved by Councilmember Ator, seconded by Councilmember Peterson to approve the vouchers. Motion Carried 3-0.

EXECUTIVE SESSION

None.

PUBLIC COMMENT

Al Smith commended Mayor Schiller for running a good meeting. He appreciated the Mayor allowing people to talk and said he ran a good and positive meeting.

Joy Iverson attend the meeting last Friday with the college students and is excited to see what ideas everyone comes up with.

Ray Boling asked about the status of the steel mill and Mayor Schiller informed him that it is still in the works, there are just a few obstacles the investors are working on so the project is halted at the moment.

MEETING ADJOURNED

It was moved by Councilmember Ator, seconded by Councilmember Peterson to adjourn the meeting at 7:30 pm. The next meeting will be Wednesday, February 24, 2016 at 7:00 pm. Motion Carried 3-0.

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: February 19, 2016
RE: LEGAL ACTIVITIES as of FEBRUARY 24, 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. **LEOFF DISABILITY BOARD APPOINTMENT:** This Board is the County board which manages the review of benefits sought by LEOFF I retirement members. In McCleary's case, there are two LEOFF I retirees, Ersel May and Garth "Sandy" Jones.

The Board consists of three appointed members. One of the three is appointed by the cities. Ms. Collins has received a letter from the Board's secretary indicating that the position is subject to a new term. The current representative was recommended by Hoquiam's Mayor initially and for reappointment. Based upon the language in the letter, I have requested clarification as to whether the time for considering alternate recommendations has passed. I anticipate having a response by the time of the meeting.

2. **UTILITY POLE CONNECTION AGREEMENT DRAFTING:** Currently we have only one request outstanding, specifically from Astound. However, we currently have parties, including Century Link and Comcast, using the poles under agreements at rates from long ago. There is also the probability that we will have other parties requesting to connect to the poles.

In light of those factors, Mt. Nott, Mr. Baun, and I have met twice on this matter. The initial conclusion we reached was that there is a benefit to being consistent with the approach/agreement used by GHPUD. Thus, Paul and Todd have been in contact with representatives of the PUD and Paul has been in contact with the Mason County PUD with the goal of getting the

best understanding of the practical issues those entities have faced. Mr. Pitt, GHPUD's counsel and I have also been exchanging information, not only about the drafting issues, but also rate issues. (He informed me that Pacific County's PUD is currently involved in litigation in which certain parties which have connected to their poles are challenging the rates assessed. The rate study will be useful in this area.)

I am completing a redraft of the agreement to incorporate changes discussed at the second meeting. Upon completion and assurance that it meets the recommendations of Paul and Todd, it will come before you for review and consideration. I would note that one of the concurrent actions will involve notification to the current users and amendment of certain existing enactments.

3. **DEVELOPMENT CC&R QUERY:** As you are likely aware from discussions which occurred several times before the Council, when plats were approved, the developer had to provide what are known as Conditions, Covenants, & Restrictions (CC&Rs) which lay out the elements the Developer proposes to have the landowners follow in development upon the lots. (Size and type of homes, landscaping issues, etc.) They are to be administered by Homeowners Associations (HOA) which are filed as non-profit entities. As you are also aware, it appears the owners of the lots in several of the plats approved by the City have chosen to allow the existence of their HOAs to lapse with the Secretary of State.

Since the last Council Meeting, Mr. Baun received a query from an individual as to whether or not the City would enforce the contents of the CC&Rs. The question may have arisen in the individual's mind as a result of the absence of an active HOA. It is an issue which I have faced also in my private practice in the representation of developers and property owners. My advice to Mr. Baun was straight forward; that while the City will enforce matters related to City Code provisions, such as set backs from property lines, CC&Rs are private matters between the property owners. Thus, in the absence of an active HOA, the enforcement authority and responsibility is solely with the property owners within the development.

4. **ELECTRICAL RATE STUDY AGREEMENT:** As of the time of the preparation of this Report, I have not been informed as to what response has been received by the City as to the questions and suggestions Council Member Orffer and I raised as the result of our respective reviews. I assume we will have that information for your consideration by the time of this meeting.

5. **LEGISLATION:** The Legislature is now in the second half of its regular session. HB 2576 did make it out of Committee with amendments which results in it now being characterized as SSHB 2576. There is still a chance that it will be voted upon by the House. I would note that the element about certain types of commercial requestors having to pay the actual costs incurred in developing the response to their request is gone from the SSHB. However, the element about allowing a city to develop a proposed set of rules governing the response time and recognizing the impact upon staff time required is still present. There also may be present provisions which would clarify that, before the failure of a municipal entity to respond to a record request can result in an award of fees and costs, basically intentional wrong doing must be found by the Court.

You may wish to consider sending a letter to our District's legislative representatives urging them to move forward with its enactment.

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: February 19th, 2016
Re: Current Non-Agenda Activity

City Council Tour Date and Time

The City Council City Tour is scheduled for March 11th at 2:30. We will meet at City Hall to start the tour.

City Wide Clean-Up

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

Public Works Assistant Position

We have conducted interviews of 4 applicants and will be discussing the results of the interview with the Mayor. We are hoping to have a new person in the position within the next 2-3 weeks.

Larry Skinner from BHC Consultants

Larry Skinner will be performing the Building Official duties for the City starting this week. Starting off, he will be coming in a couple times a week to get the department organized. After he gets the department to his standard, he will be use on a “as needed” basis.

Community Clean-Up

A group of local citizens will be meeting at Beerbower Park at 12:00 on Sunday, Feb. 28th to perform a “clean-up” of the city. They will be walking around the city picking up trash and debris. The City will be providing trash bags and a 20 yard dumpster for this cause.

Welcome to AWC's online library of *Legislative Bulletin* and *CityVoice* news articles and other updates.

PUBLISHED ON FRIDAY, FEBRUARY 05, 2016

First hurdle down, several to go as public records priority bill passes local government committee



AWC priority bill, **HB 2576**, addressing local government public records disputes, cleared its first big hurdle on February 4, passing out of the House Local Government Committee. Even though this is a bipartisan bill, the vote out of committee was strictly party-line, with all Democrats voting for, and all Republicans voting against. The bill has been referred to the House Appropriations Committee where we hope to receive a public hearing and get it voted out.

Momentum is growing behind our public records legislation, with acknowledgement from Democratic Party leadership that the public records issues plaguing our communities are real and need solutions. This was made apparent during a Democratic press conference on February 1 where House Speaker Frank Chopp (D-Seattle), House Majority Leader Pat Sullivan (D-Convington), and Senate Minority Leader Sharon Nelson (D-Maury Island), all spoke to the stories they are hearing from you about the harassing and burdensome requests you see every day. [View the press conference here](#) and fast-forward to minute 18:55 for comments around public records. Please keep working with your legislators to keep this momentum up as we face continued opposition and a long process with this legislation moving forward.

Specifically, open government advocates remain very concerned with the legislation and continue to oppose the bill. As a result of stakeholder resistance, **HB 2576** was amended in the House Local Government Committee and the provision dealing with commercial charges for public records was removed.

As amended **HB 2576** would:

- Allow local agencies to adopt policies that limit the time and resources spent responding to records requests. Currently cities and other local agencies are struggling to deal with voluminous requests. These often get in the way of day-to-day work activities and other public records requests.
- Establish a Public Records Commission responsible for alternative dispute resolution for public records disputes. The Commission will provide an opportunity for jurisdictions to seek alternatives to court action.

While open government advocates and the newspaper industry continue to oppose the bill, they acknowledge that real abuse is occurring and that problem requestors are harming the system. This is an important step and we are calling on them to continue working with us to find solutions that are beneficial to open government. To keep this momentum up, we ask that all of our city officials talk about the issues around local government—not just in Olympia and with legislators—but also in your community, with your citizens, and your local news media. We need everyone to understand the amount of time and resources that cities commit to open government as well as the damage that can be done when someone abuses the Public Records Act.

With the bill now in the House Appropriations Committee please continue to contact your legislators and Committee members about the importance of this legislation to your community and urge them to advance the bill before the February 9 fiscal cutoff.



Public records reform for local government

Cities are committed to open and transparent government. Adopted in 1972, the Public Records Act is a key component to ensure transparency in government. Cities dedicate significant resources to managing and responding to records requests, most of which are straightforward – copies of meeting minutes, police reports, building permits, budgets, etc. Cities are now seeing disturbing growth in requests that are much more burdensome. Serial, harassing, and profit-motivated requestors are impeding cities' ability to respond to the average resident's records requests, and creating a costly burden for local government.

AWC's priority bill, HB 2576, will help cities

HB 2576, sponsored by Rep. Joan McBride (D-Kirkland) and Rep. Terry Nealey (R-Dayton), is a modest proposal to provide some alternatives for local government and requestors alike.

The bill would enact the following:

- Allow local agencies to set reasonable limits on the amount of time they will dedicate each month to fulfilling records requests in order to preserve resources for essential services.
- Establish a Public Records Commission that will offer voluntary alternative dispute resolution for public records disputes. The commission's services will be available to both local agencies and requestors.
- Direct 20% of any fines under the Public Records Act into an account to help fund the newly-established Public Records Commission.

Talk with legislators, constituents, and the media about public records abuses

- **Contact your legislators** and ask them to support **HB 2576**. It needs to pass the House by the cutoff deadline of February 17.
- **Educate your community members** about your city's commitment to open and transparent government, and the challenges that this decades-old law creates.
 - Discuss your city's challenges at council meetings.
 - Share information about the law and its challenges with community groups.
- **Tell your local media** that the abundance of serial and harassing requests impede cities' ability to respond to the average resident's records requests and wastes taxpayer dollars. Consider writing an op-ed for your local paper about your city's story.

Share these points when discussing the need for public records reform

- Cities are committed to the principles of open and transparent government, and dedicate significant resources to managing and responding to records requests.
- Harassing, serial and retaliatory requestors are exploiting the Public Records Act for their own purposes, not for public benefit. These requestors tie up significant resources with frequent and broad requests, slow down the public records process for everyone else, and drain limited public resources away from essential services.
- Cities and requestors need a quick and less expensive option for resolving disputes other than going to court. Going to court is costly for both parties. It would be beneficial to everyone to have a voluntary process that is faster and cheaper to resolve disputes.

Please share your local experiences and the impact on your community, and how this legislation could help.

STAFF REPORT

To: Mayor and Council
 From: Todd Baun- Director of Public Works
 Date: February 19, 2016
 Re: Connection Fee Adjustment

We have been mentioning the subject of reviewing and possibly adjusting our Utility connection fees for the past couple of months.

Our current connection fees are set with Resolution 580, which was adopted on January 9th, 2009. At that time the fees for a single family residence inside city limits was \$3,564 for a water connection and \$4,331 for a sewer connection. Over time, using the automatic adjustment calculation as stated in the Resolution, the current Utility Connection Fee rates are \$4,275 per water connection \$5194 per sewer connection.

I have researched connection fees in surrounding areas and they are listed in the table below.

City	Inside City Limits Water Con. Fee	Outside City Limits Water Con. Fee	Inside City Limits Sewer Con. Fee	Outside City Limits Sewer Con. Fee
McCleary	\$4275	\$5474	\$5194	\$7786
Elma	2800 +/-		2800 +/-	
Montesano	\$192	\$3858	\$2751	\$6443
Aberdeen				
Hoquiam	\$3140	\$4710	T&M+ 50%	
Westport				
Ocean Shores	\$2259		\$500	
Olympia	\$3918		\$8478.82	
Tumwater	\$4252		\$7490.38	
Lacey	\$3842		\$8441.38	

Action Requested:

Please discuss and give direction.

The current budget is for \$12,000 to purchase and deploy a city email (Exchange) server.

Recently, the City experienced a complete outage from the hosted service Lunarpages and separately blocked email addresses as well as increased Spam received.

Also, the Domain Controller/File Server (DCFS) experienced a failure of at least one of its RAM (memory) Modules causing the server to crash every day until the replacement RAM was installed.

Crashing like this is dangerous to the continuity of the data on the hard drives (operating system and data files).

The purpose of this proposal is to expand the Exchange Server project to virtualize the DCFS and Exchange Server onto two server hardware chassis (Boxes).

Each box would have a DCFS and Exchange Server on a virtual platform. This virtual technology (Hyper-V) creates the appearance for each server to perceive the other as a separate stand-alone system. Hyper-V is a free Microsoft program.

The results of this project would be two boxes with four servers (2-DCFS + 2 Exchange) providing a level of fault tolerance which would allow a box or a virtual server to go offline without loss of data or loss of productivity. That combined with the prior Exchange benefits of having full control of email accounts, consolidated email retention for compliance and spam filtering.

This virtualization project has approximately 16 steps to build three new virtual servers. The existing box with the sole DCFS will be converted to virtual version of itself. These 16 steps are estimated to require an additional \$7000. The additional material (hardware and software) is estimated at \$2500. Therefore \$9500 will be needed in addition to the original \$12,000.

ORDINANCE NO. _____

**AN ORDINANCE RELATING TO ZONING, REGULATING
CERTAIN USES, AMENDING SECTION II, ORDINANCE
804, PROVIDING FOR ENFORCEMENT,
SEVERABILITY, AND AN EFFECTIVE DATE.**

R E C I T A L S:

1. With the adoption of Initiative 502, certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB)

2. Pursuant to Ordinance 804, the City enacted a prohibition of activities authorized by Initiative 502, as codified in RCW Chapter 69.50.

3. Since that time, a request has been received to review the matter of the allowance of certain activities authorized under Initiative 502, specifically the growing and processing of marijuana as allowed by permission issued by WSCLB.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance.

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

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited to public safety, to implement a prohibition or regulation of the allowance within the corporate limits of the siting and implementation of the uses set forth in Section II.

SECTION II: Section II, Ordinance 804 and the section of Chapter 17.20 by which it has been codified shall be amended to read as follows:

A. General: No use that is illegal under local, state, or federal law shall be allowed in any zone within the city.

B. Specific Application – Medical Marijuana Dispensaries and Collective Gardens: Until such time as this code is amended to provide specific provisions and land use controls allowing and regulating dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, such uses are not allowed in any zone within the city.

For purposes of this section:

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers,

exchanges, or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

C. Production and Processing Permitted (~~and Retailing of Marijuana Prohibited~~): The production and processing of marijuana by a person or entity possessing a valid license to do so as a marijuana producer or marijuana processor which has been issued by the Washington State Liquor Control Board pursuant to its authority granted by Initiative 502 and applicable provisions of RCW 69.50 and WAC 314-55, as now existing or hereafter amended or succeeded, shall be allowed as a permitted use in the Industrial (I) zone so long as such activities are in compliance with the terms and conditions under which the license was issued.

1. In relation to the uses authorized by this section, the following specific provisions shall apply:

a. The facility shall be equipped with such air handling and filtering equipment so as to prevent the odor associated with the growth and processing of marijuana from escaping the interior of the facility.

b. Waste products shall be disposed of in a secure manner that will prevent exposure to or access by the public nor shall disposal or storage create a nuisance.

c. As a condition of processing of any application for any use authorized by this section, prior to the consideration of the issuance of any permit, the applicant shall provide proof satisfactory to the City

of the provision of written notice to the owners of the property located within 1,000 feet of the boundaries of the Applicant's property and which are utilized as elementary or secondary schools, recreation centers or facilities, child care centers, churches, agencies which operate public parks, transit center, libraries, or a game arcade to which admission by anyone less than the age of 21 years is not restricted. The application shall not be considered complete until such proof is provided.

2. For purposes of this section, the following definitions apply: PROVIDED THAT, in the event that either RCW Chapter 69.50 or WAC Chapter 314.55, each as now existing or hereafter amended or succeeded, provide a different definition, the definition in the WAC Chapter 314.55 or RCW Chapter 69.50 shall govern.

a. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

b. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~((Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale, and retail outlets for the sale of marijuana and marijuana infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of~~

~~Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended, such uses are each prohibited and not allowed in any zone within the city.))~~

D. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating ((production, processing,)) retail sale or (7) retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, as now existing or hereafter amended, are each prohibited and not allowed in any zone within the city.

E. **Enforcement:** Any violation of this ordinance ((section)) is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Section 17.40.140 MMC.

SECTION III: Section 17.20.030 MMC & Section 1 (Part), of Ordinance 709, as last amended by Section 2, Ordinance 804, is amended in the following respects:

The table of land uses setting forth permitted uses in the Industrial [I] zone shall be modified to add the following as permitted uses:

Marijuana growing and marijuana processing as defined in and permitted by Section II of this ordinance.

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. As of that date, any moratorium imposed by prior ordinances on the activities covered by this ordinance shall be deemed repealed.

SECTION VI: 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 _____, 2015, by the
City Council of the City of McCleary, and signed in approval
therewith this _____ day of _____, 2016.

CITY OF McCLEARY:

BRENT SCHLLER, 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:

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ZONING, REGULATING CERTAIN USES, AMENDING SECTION II, ORDINANCE 804, PROVIDING FOR ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE.

R E C I T A L S:

1. With the adoption of Initiative 502, certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB)

2. Pursuant to Ordinance 804, the City enacted a prohibition of activities authorized by Initiative 502, as codified in RCW Chapter 69.50.

3. Since that time, a request has been received to review the matter of the allowance of certain activities authorized under Initiative 502, specifically the growing and processing of marijuana as allowed by permission issued by WSLCB.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance.

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

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited to public safety, to implement a prohibition or regulation of the allowance within the corporate limits of the siting and implementation of the uses set forth in Section II.

SECTION II: Section II, Ordinance 804 and the section of Chapter 17.20 by which it has been codified shall be amended to read as follows:

A. General: No use that is illegal under local, state, or federal law shall be allowed in any zone within the city.

B. Specific Application – Medical Marijuana Dispensaries and Collective Gardens: Until such time as this code is amended to provide specific provisions and land use controls allowing and regulating dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, such uses are not allowed in any zone within the city.

For purposes of this section:

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers,

exchanges, or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

C. Production and Processing Permitted (~~and Retailing of Marijuana Prohibited~~): The production and processing of marijuana by a person or entity possessing a valid license to do so as a marijuana producer or marijuana processor which has been issued by the Washington State Liquor Control Board pursuant to its authority granted by Initiative 502 and applicable provisions of RCW 69.50 and WAC 314-55, as now existing or hereafter amended or succeeded, shall be allowed as a permitted use in the General Commercial [C-2] and Industrial (I) zones so long as such activities are in compliance with the terms and conditions under which the license was issued.

1. In relation to the uses authorized by this section, the following specific provisions shall apply:

a. The facility shall be equipped with such air handling and filtering equipment so as to prevent the odor associated with the growth and processing of marijuana from escaping the interior of the facility.

b. Waste products shall be disposed of in a secure manner that will prevent exposure to or access by the public nor shall disposal or storage create a nuisance.

c. As a condition of processing of any application for any use authorized by this section, prior to the consideration of the issuance of any permit the

applicant shall provide proof satisfactory to the City of the provision of written notice to the owners of the property located within 1,000 feet of the boundaries of the Applicant's property and which are utilized as elementary or secondary schools, recreation centers or facilities, child care centers, churches, agencies which operate public parks, transit center, libraries, or a game arcade to which admission by anyone less than the age of 21 years is not restricted. The application shall not be considered complete until such proof is provided.

2. For purposes of this section, the following definitions apply: PROVIDED THAT, in the event that either RCW Chapter 69.50 or WAC Chapter 314.55, each as now existing or hereafter amended or succeeded, provide a different definition, the definition in the WAC Chapter 314.55 or RCW Chapter 69.50 shall govern.

a. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

b. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~((Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale, and retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of~~

~~Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended, such uses are each prohibited and not allowed in any zone within the city.))~~

D. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating ((~~production, processing,~~) retail sale or (~~7~~) retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, as now existing or hereafter amended, are each prohibited and not allowed in any zone within the city.

E. **Enforcement:** Any violation of this ordinance ((~~section~~)) is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Section 17.40.140 MMC.

SECTION III: Section 17.20.030 MMC & Section 1 (Part), of Ordinance 709, as last amended by Section 2, Ordinance 804, is amended in the following respects:

The table of land uses setting forth permitted uses in the Industrial [I] and General Commercial [C-2] zones shall be modified to add the following as permitted uses:

Marijuana growing and marijuana processing as defined in and permitted by Section II of this ordinance.

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. As of that date, any moratorium imposed by prior ordinances on the activities covered by this ordinance shall be deemed repealed.

SECTION VI: 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 _____, 2015, by the City Council of the City of McCleary, and signed in approval therewith this _____ day of _____, 2016.

CITY OF McCLEARY:

BRENT SCHLLER, 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

ORDINANCE -B- 7
02/12/2016
DG/1e

CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

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: