



McCleary City Council Agenda

05/10/19- 6:30PM

Flag Salute

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

Public Hearing

Mayor Comments

Public Comment

Minutes

Approval of Vouchers

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

Tab

Critical Area Ordinance

A 4/24/2019

Staff Reports

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

Tab

B Chris Coker

Tab

C Todd Baun

Tab

D Staff

Old Business

<input type="checkbox"/>

Tab

E Truck Permitting

New Business

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

Tab

F Electrical Engineering

Tab

G 3rd Street

Ordinances

<input type="checkbox"/>

Tab

H Critical Area Ordinance

Resolutions

<input type="checkbox"/>

Contracts

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

Tab

I BPA Portal Update

Mayor/Council Comments

Public Comments

Adjourn/Recess Meeting

Please turn off Cell Phones- Thank you

Americans with Disabilities Act (ADA) Accommodation is Provided Upon Request

The City of McCleary is an equal opportunity provider and employer.

La ciudad de McCleary es un proveedor de igualdad de oportunidades y el empleador

TAB - A

TAB - B

Younglove & Coker

A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEYS AT LAW

"SINCE 1974"

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

TELEPHONE (360) 357-7791

FACSIMILE (360) 754-9268

OFFICE@YLCLAW.COM

Memorandum

TO: Mayor and City Council, City of McCleary
FROM: Christopher John Coker, City Attorney
DATE: May 2, 2019
RE: Significant Legal Activities as of May 1, 2019.

Generally speaking things remain quiet from a legal perspective within the City. A warrant issue came up regarding a criminal case and I think it was resolved satisfactorily.

Of significant concerns remains the issue of nuisance properties within the city limits. As of right now there are three properties that are being dealt with through the municipal court. Two properties (127 E. Hemlock St. and 330 E. Mommsen Rd) are owned by a John Allardin. The third property (221 Main St) is owned by Libby Jo Tanatchangsang. Mr. Allardin's cases have been continued several times with the goal of allowing Mr. Allardin the opportunity to clean up his properties. It is my understanding compliance, or really any efforts whatsoever have been reached. Ms. Tanatchangsang has been in warrant status since August 2018, so again it is my understanding that no mitigation has occurred.

At this point I am seeking guidance from council. It appears the reasonable efforts by the City to bring the properties into compliance have been essentially ignored. Based on the failure of the owners to comply with what are very reasonable expectations, I am recommending the city council authorize my office to pursue Warrants of Abatement through Grays Harbor Superior Court. I believe based on experience that the Superior Court will agree with a Warrant and will grant the City the authority to go on to the subject properties and remedy the situations. It is always difficult to guesstimate costs, but I would liberally say attorney's fees could run in the \$5,000 range, with clean up costs on top of that. We would seek judgment for any and all costs incurred against the property owners, with collection possibly occurring years from now.

Finally, I sent letters from my office relating to 5 property owners delinquent on utility bills. I heard the letters were successful to some extent but will defer to Wendy for more specifics.

If you have any questions or need any additional information, please do not hesitate to ask or request.

TAB - C

STAFF REPORT

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

3rd Street Project

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

Comcast Cares

We are working with Comcast Cares to spread wood chips in the playground area and paint the train shelter.

TAB - C

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TAB - D

STAFF REPORT

Date: May, 2019

To: Todd Baun, Director of Public Works

From: Kevin Trehwella, Water & Wastewater Manager

Subject: Drinking Water

Todd,

The Department of Health requires testing for Herbicides. Spring of 2019 we tested the drinking water for 14 known Herbicides. All of the laboratory test results came back as ND (Non-Detect).

McCleary's water has had no evidence of these chemicals in the drinking water.

DOH has looked at our past test results and our current test results, they have granted us a waiver of 9 years between tests.

As we proceed through the summer and we receive the results of our ongoing water quality tests, I will keep you updated.

TAB - E

ORDINANCE NO. 777

AN ORDINANCE ESTABLISHING WEIGHT LIMITS UPON CERTAIN STREETS; PROVIDING FOR A PERMITTING PROCESS; IMPOSING PENALTIES; AND ADDING A NEW CHAPTER TO TITLE 10.

R E C I T A L S:

1. The City of McCleary maintains public streets within the ordinary course of its operations.

2. There is concern that vehicles of over a specified weight may create significant risk of damage to those streets in light of the level of construction of the streets, thus requiring repair at the City's expense as a result of private activity.

3. It is the desire and intention of the Mayor and Council to control such activity, but at the same time, establish a procedure by which such use may be permitted.

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

SECTION I: On and after the 1st day of July, 2012, it shall be unlawful for any person to drive or operate a motor vehicle having a gross weight greater than twenty-six thousand (26,000) pounds on those certain streets as described upon Attachment Number 1 attached hereto and incorporated by this reference without possessing the appropriate road use permit authorized pursuant to the provisions of Section II of this

Ordinance: PROVIDED THAT, the primary entrance to the streets subject to this restriction shall be posted with signs giving notice of the restriction: PROVIDED FURTHER THAT, this prohibition shall not apply to the following classification of vehicles:

A. Emergency vehicles, including but not limited to fire suppression equipment, emergency medical services equipment, and police equipment.

B. Public utility vehicles.

C. Vehicles, the presence of which would otherwise be prohibited, for the sole purpose of traveling upon the roads within the restricted area to make delivery of a product carried by such vehicle to a location within the restricted area: PROVIDED THAT, such exemption shall not apply if a similar delivery has been made to that location within the prior five (5) calendar days.

SECTION II: Prior to the operation of a motor vehicle upon any public street subject to the restrictions set forth in Section I of this Ordinance, the owner or operator shall apply and receive a road use permit from the City.

2.1. The road use permit shall be applied for through the Office of the Clerk-Treasurer of the City. The fee to be charged for the issuance of such permit shall be established by resolution. It shall be subject to issuance by the Clerk-Treasurer.

2.2. In issuance of the permit, the Clerk-Treasurer shall be authorized to rely upon advice of the Director of Public

Works or such other persons as may be deemed appropriate, and shall take into consideration the nature of the traffic which is requested, the amount of such traffic resulting, the street or public rights-of-way involved, the nature of construction of the streets in question, and such other factors as may be relevant.

2.3. The issuance of the permit may be conditioned upon such conditions as may be deemed appropriate and necessary, including but not limited to posting an appropriate bond, having acceptable sureties, or maintaining or restoring the street to the same condition as it was prior to the commencement of the utilization.

SECTION III: In the event an individual who has sought a permit is aggrieved by the terms and conditions of the proposed permit, that individual may appeal the conditions to the City Council. The appeal shall be in writing, filed with the Office of the Clerk-Treasurer, and shall state with reasonable specificity the portions of the permit which are being appealed. Within forty-five days of the filing of the notice of appeal, the Council shall hold a hearing upon the appeal. The Council may affirm, reverse, or modify the decision of the Clerk-Treasurer. The decision of the City Council shall be final.

SECTION IV: Any person violating the provisions of this Chapter shall be subject to the following penalties:

A. Upon a finding of committed as to up to two notices of infraction alleging a violation of this ordinance within any twelve-month period, the party shall be subject to a penalty not

to exceed \$300: PROVIDED that the Court upon such finding may also require restitution for any damage suffered.

B. Upon a third or subsequent finding of violation within any twelve-month period, the party shall be subject to punishment as provided in the general penalty provision of the first paragraph of Section 1.20.010 M.M.C., as now existing or hereafter amended or supplanted: PROVIDED that, in addition to any fine or jail sentence, restitution for any damage may be required.

SECTION V: Sections I through IV shall constitute a new Chapter in Title 10 of the McCleary Municipal Code.

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

PASSED THIS 8th DAY OF FEBRUARY, 2012, by the City Council of the City of McCleary, and signed in approval therewith this 8th day of February, 2012.

CITY OF McCLEARY:

D. Gary Dent
D. GARY DENT, Mayor

ATTEST:

Wendy Collins
WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

Dan 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 777 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 777, as it was published, is on file in the appropriate records of the City of McCleary.

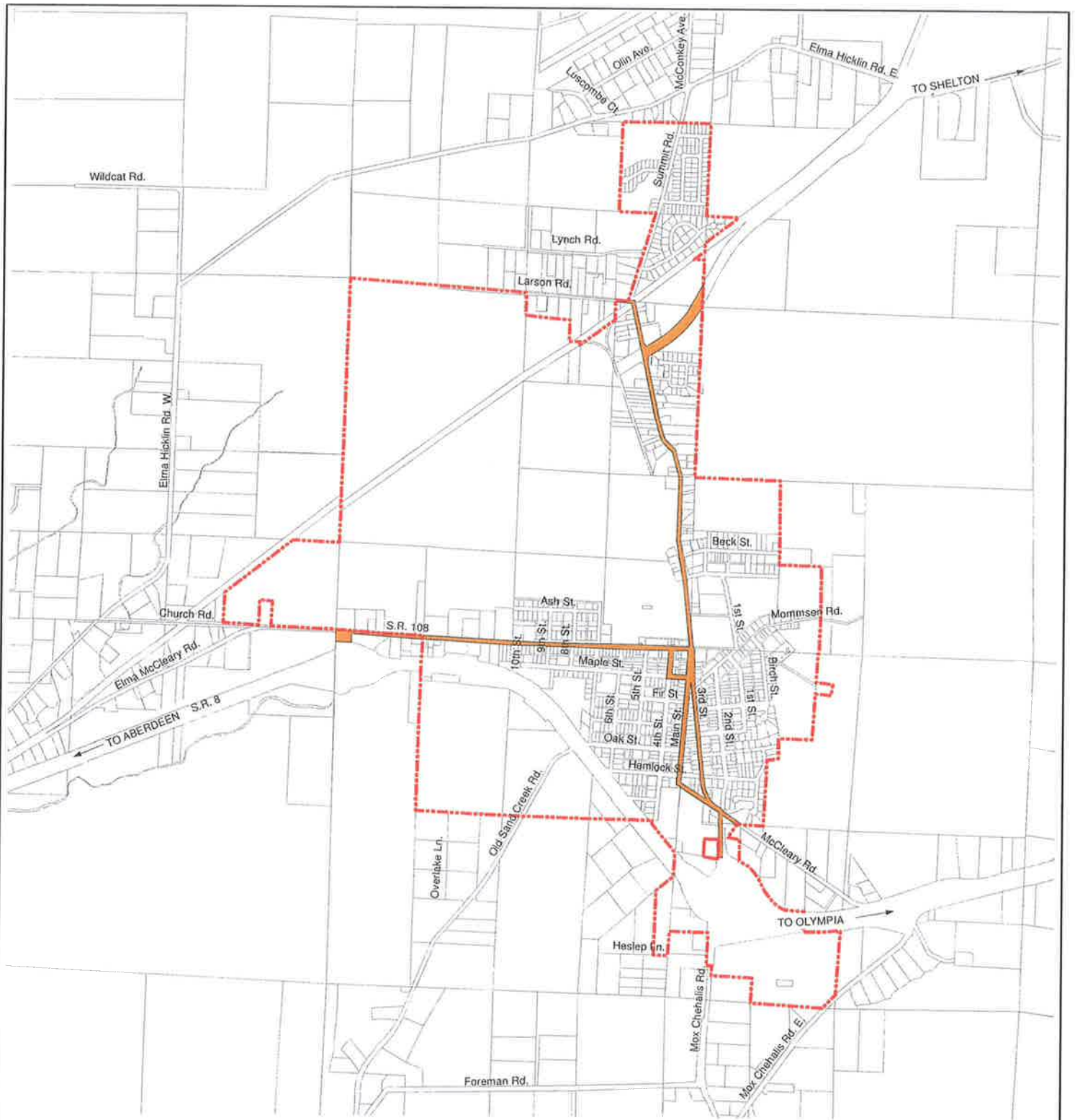
Wendy Collins
WENDY COLLINS

February SIGNED AND SWORN to before me this 8th day of February, 2012, by WENDY COLLINS.

Christiane A. Merzes
NOTARY PUBLIC IN AND FOR THE STATE OF
WASHINGTON, Residing at: Grays Harbor
My appointment expires: July 1, 2012



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



NOTE: IT SHALL BE UNLAWFUL FOR ANY VEHICLES AS DESCRIBED IN THE ATTACHED ORDINANCE TO TRAVEL IN ANY AREAS NOT IDENTIFIED AS AN AUTHORIZED TRUCK ROUTE.



0 2,000 4,000

SCALE: 1"=2000'

Legend

- CITY LIMITS
- PARCELS
- AUTHORIZED TRUCK ROUTE

CITY OF McCLEARY

ORDINANCE 777, ATTACHMENT 1
AUTHORIZED TRUCK ROUTE


Gray & Osborne, Inc.
CONSULTING ENGINEERS


SYNOPSIS OF ORDINANCE NO. 777

**AN ORDINANCE ESTABLISHING WEIGHT
LIMITS UPON CERTAIN STREETS; PROVIDING FOR
A PERMITTING PROCESS; IMPOSING PENALTIES;
AND ADDING A NEW CHAPTER TO TITLE 10.**

On February 8, 2012, the City Council of the City of McCleary adopted Ordinance Number 777. The intent and purpose of the Ordinance was place weight restrictions as to the use of certain streets by motor vehicles. A permitting process was created and exceptions set forth.

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 8th day of February, 2012.

A handwritten signature in blue ink, appearing to read "Wendy Collins", is written over a horizontal line.

WENDY COLLINS, Clerk-Treasurer

All Traffic Data Services
Wheat Ridge, CO 80033

Date Start: 16-Oct-18

Date End: 18-Oct-18

Site Code: 139

Mox Chehalis Rd S-O McCleary Rd

NB

Start Time	Bikes	Cars & Trailers	2 Axle Long	Buses	2 Axle 6 Tire	3 Axle Single	4 Axle Single	<5 Axl Double	5 Axle Double	>6 Axl Double	<6 Axl Multi	6 Axle Multi	>6 Axl Multi	Total
10/16/18	0	12	0	0	0	0	0	0	2	0	0	0	0	14
01:00	0	6	0	0	0	0	0	0	0	0	0	0	0	6
02:00	0	5	0	0	0	0	0	0	0	0	0	0	0	5
03:00	0	9	0	0	0	0	0	0	0	0	0	0	0	9
04:00	6	14	6	0	3	3	0	0	0	0	0	0	0	32
05:00	0	26	9	0	2	2	0	0	0	2	0	0	0	41
06:00	4	74	17	2	4	0	0	4	0	6	0	0	4	115
07:00	3	87	19	3	0	0	0	4	4	4	0	0	4	128
08:00	6	92	20	2	12	2	0	0	4	4	0	0	0	142
09:00	5	70	29	0	5	4	0	4	4	4	0	0	0	125
10:00	0	97	27	0	4	0	0	0	4	4	0	0	0	136
11:00	4	108	32	4	9	4	0	0	1	4	0	0	1	167
12 PM	7	107	30	0	8	0	0	4	4	2	0	0	2	164
13:00	0	117	24	0	8	3	0	0	0	0	0	0	0	152
14:00	3	115	25	0	7	4	0	4	0	8	0	0	3	169
15:00	4	170	39	4	15	0	0	3	3	0	0	0	0	238
16:00	4	195	34	0	8	4	0	2	0	0	0	0	0	247
17:00	4	191	47	0	6	0	0	0	0	0	0	0	0	248
18:00	2	142	29	0	9	0	0	0	0	0	0	0	0	182
19:00	0	93	15	0	2	0	0	2	0	0	0	0	0	112
20:00	2	61	8	0	0	0	0	0	0	0	0	0	0	71
21:00	0	55	6	0	0	0	0	0	0	2	0	0	0	63
22:00	0	13	0	0	2	0	0	0	0	0	0	0	0	15
23:00	0	12	2	0	0	0	0	0	2	0	0	0	0	16
Day Total	54	1871	418	15	104	26	0	27	28	40	0	0	14	2597
Percent	2.1%	72.0%	16.1%	0.6%	4.0%	1.0%	0.0%	1.0%	1.1%	1.5%	0.0%	0.0%	0.5%	
AM Peak	04:00	11:00	11:00	11:00	08:00	09:00		06:00	07:00	06:00			06:00	11:00
Vol.	6	108	32	4	12	4		4	4	6			4	167
PM Peak	12:00	16:00	17:00	15:00	15:00	14:00		12:00	12:00	14:00			14:00	17:00
Vol.	7	195	47	4	15	4		4	4	8			3	248

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Wheat Ridge, CO 80033

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10/17/18	4	10	2	0	0	0	0	0	0	0	0	0	0	16
01:00	0	4	0	0	0	0	0	0	0	0	0	0	0	4
02:00	0	7	0	0	0	0	0	0	0	0	0	0	0	7
03:00	5	5	1	0	0	1	0	0	1	0	0	0	0	13
04:00	0	23	5	0	5	1	0	0	0	0	0	0	0	34
05:00	2	26	6	0	4	5	0	0	2	0	0	0	2	47
06:00	3	77	17	2	10	2	0	0	2	6	0	0	0	119
07:00	6	72	21	0	0	5	0	0	2	4	0	0	0	110
08:00	8	86	27	0	8	4	0	2	6	2	0	0	0	143
09:00	5	67	21	0	8	4	0	0	1	0	0	0	0	106
10:00	8	88	22	0	12	4	0	2	2	4	0	0	0	142
11:00	4	76	25	4	12	4	0	4	4	4	0	0	0	137
12 PM	12	106	41	3	8	8	0	0	3	3	0	0	0	184
13:00	2	102	26	0	4	4	0	4	0	6	0	0	0	148
14:00	2	154	30	2	11	4	0	4	4	2	0	0	0	213
15:00	5	172	27	4	12	4	0	1	1	0	0	0	0	226
16:00	3	168	43	0	11	0	0	3	3	0	0	0	0	231
17:00	0	206	39	0	0	0	0	0	4	0	0	0	0	249
18:00	4	136	23	0	10	0	0	0	0	0	0	0	0	173
19:00	4	116	29	2	5	0	0	0	0	0	0	0	0	156
20:00	0	74	11	0	0	0	0	0	0	0	0	0	0	85
21:00	3	43	4	0	3	0	0	0	0	0	0	0	0	53
22:00	0	25	2	0	0	0	0	0	0	0	0	0	0	27
23:00	0	17	0	0	0	0	0	0	0	0	0	0	0	17
Day Total	80	1860	422	17	123	50	0	20	35	31	0	0	2	2640
Percent	3.0%	70.5%	16.0%	0.6%	4.7%	1.9%	0.0%	0.8%	1.3%	1.2%	0.0%	0.0%	0.1%	
AM Peak	08:00	10:00	08:00	11:00	10:00	05:00		11:00	08:00	06:00			05:00	08:00
Vol.	8	88	27	4	12	5		4	6	6			2	143
PM Peak	12:00	17:00	16:00	15:00	15:00	12:00		13:00	14:00	13:00				17:00
Vol.	12	206	43	4	12	8		4	4	6				249

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10/18/18	7	8	3	0	3	0	0	0	3	0	0	0	0	24
01:00	0	5	0	0	0	0	0	0	0	0	0	0	0	5
02:00	0	7	0	0	0	0	0	0	0	0	0	0	0	7
03:00	0	8	0	0	0	0	0	0	2	0	0	0	0	10
04:00	6	21	4	0	6	3	0	0	0	0	0	0	0	40
05:00	0	29	9	0	0	4	0	0	0	2	0	0	0	44
06:00	0	74	9	0	6	2	0	0	3	8	0	0	2	104
07:00	4	72	18	2	6	12	0	2	6	4	0	0	0	126
08:00	8	114	26	2	16	8	0	0	4	2	0	0	0	180
09:00	8	72	26	0	4	8	0	0	0	4	0	0	0	122
10:00	4	85	27	0	8	4	0	2	2	0	0	0	0	132
11:00	8	96	24	0	8	8	0	0	4	4	0	0	2	154
12 PM	4	111	33	4	6	8	0	0	0	2	0	0	0	168
13:00	8	120	34	4	14	0	0	2	0	4	0	0	4	190
14:00	3	146	27	0	3	4	0	4	0	4	0	0	0	191
15:00	0	184	37	4	12	4	0	0	4	0	0	0	0	245
16:00	6	160	46	0	8	2	0	0	0	0	0	0	0	222
17:00	0	204	48	0	10	0	0	0	0	0	0	0	0	262
18:00	4	134	27	0	11	3	0	3	0	0	0	0	0	182
19:00	0	88	12	0	3	0	0	0	0	0	0	0	0	103
20:00	0	60	13	0	0	0	0	0	0	0	0	0	0	73
21:00	0	61	9	0	5	0	0	0	0	0	0	0	0	75
22:00	3	23	4	0	0	4	0	0	3	0	0	0	0	37
23:00	0	19	1	0	0	0	0	0	0	0	0	0	0	20
Day Total	73	1901	437	16	129	74	0	13	31	34	0	0	8	2716
Percent	2.7%	70.0%	16.1%	0.6%	4.7%	2.7%	0.0%	0.5%	1.1%	1.3%	0.0%	0.0%	0.3%	
AM Peak	08:00	08:00	10:00	07:00	08:00	07:00		07:00	07:00	06:00			06:00	08:00
Vol.	8	114	27	2	16	12		2	6	8			2	180
PM Peak	13:00	17:00	17:00	12:00	13:00	12:00		14:00	15:00	13:00			13:00	17:00
Vol.	8	204	48	4	14	8		4	4	4			4	262
Grand Total	207	5632	1277	48	356	150	0	60	94	105	0	0	24	7953
Percent	2.6%	70.8%	16.1%	0.6%	4.5%	1.9%	0.0%	0.8%	1.2%	1.3%	0.0%	0.0%	0.3%	

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Wheat Ridge, CO 80033

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Mox Chehalis Rd S-O McCleary Rd

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10/16/18	0	0	0	0	0	0	0	0	0	0	0	0	0	0
01:00	4	4	4	0	0	0	0	0	0	0	0	0	0	12
02:00	0	5	4	0	0	0	0	0	1	0	0	0	0	10
03:00	0	14	7	0	0	0	0	0	0	0	0	0	0	21
04:00	0	27	8	0	2	0	0	0	0	0	0	0	0	37
05:00	5	42	19	0	12	0	0	0	4	0	0	0	0	82
06:00	0	119	34	0	11	0	0	4	0	0	0	0	0	168
07:00	4	138	31	4	4	11	0	3	3	0	0	0	0	198
08:00	0	128	28	4	12	4	0	0	4	0	0	0	0	180
09:00	0	98	25	4	8	9	0	5	4	0	0	0	0	153
10:00	0	106	27	0	8	4	0	6	0	0	0	0	0	151
11:00	0	95	28	1	8	0	0	4	1	0	0	0	0	137
12 PM	4	99	25	2	11	4	0	2	2	0	0	0	0	149
13:00	0	102	28	0	11	3	0	3	0	0	0	0	0	147
14:00	7	111	31	3	8	4	0	4	0	0	0	0	0	168
15:00	0	144	39	4	11	3	0	4	0	0	0	0	0	205
16:00	0	117	36	0	10	2	0	2	0	0	0	0	0	167
17:00	2	134	22	0	9	0	0	0	0	0	0	0	0	167
18:00	0	67	14	2	4	0	0	0	0	0	0	0	0	87
19:00	0	43	9	0	4	0	0	0	0	0	0	0	0	56
20:00	0	31	4	0	4	0	0	0	0	0	0	0	0	39
21:00	4	22	2	0	0	0	0	0	0	0	0	0	0	28
22:00	0	15	4	0	0	0	0	0	0	0	0	0	0	19
23:00	0	4	4	0	0	0	0	0	0	0	0	0	0	8
Day Total	30	1665	433	24	137	44	0	37	19	0	0	0	0	2389
Percent	1.3%	69.7%	18.1%	1.0%	5.7%	1.8%	0.0%	1.5%	0.8%	0.0%	0.0%	0.0%	0.0%	
AM Peak	05:00	07:00	06:00	07:00	05:00	07:00		10:00	05:00					07:00
Vol.	5	138	34	4	12	11		6	4					198
PM Peak	14:00	15:00	15:00	15:00	12:00	12:00		14:00	12:00					15:00
Vol.	7	144	39	4	11	4		4	2					205

All Traffic Data Services
Wheat Ridge, CO 80033

Date Start: 16-Oct-18

Date End: 18-Oct-18

Site Code: 139

Mox Chehalis Rd S-O McCleary Rd

SB

Start Time	Bikes	Cars & Trailers	2 Axle Long	Buses	2 Axle 6 Tire	3 Axle Single	4 Axle Single	<5 Axl Double	5 Axle Double	>6 Axl Double	<6 Axl Multi	6 Axle Multi	>6 Axl Multi	Total
10/17/18	4	4	2	0	0	0	0	0	0	0	0	0	0	10
01:00	0	0	3	0	0	0	0	0	0	0	0	0	0	3
02:00	0	5	0	0	0	4	0	0	0	0	0	0	0	9
03:00	4	10	4	0	0	0	0	0	0	0	0	0	0	18
04:00	0	36	8	0	5	0	0	0	0	0	0	0	0	49
05:00	2	68	21	0	10	4	0	0	0	0	0	0	0	105
06:00	3	129	26	2	10	2	0	4	2	0	0	0	0	178
07:00	5	155	26	2	6	4	0	2	4	0	0	0	0	204
08:00	0	101	32	2	12	2	0	0	2	0	0	0	0	151
09:00	0	88	25	0	9	4	4	0	4	0	0	0	0	134
10:00	4	82	26	2	12	0	0	4	4	0	0	0	4	138
11:00	4	98	27	0	13	2	0	4	4	0	0	0	0	152
12 PM	0	81	23	3	12	4	3	4	0	0	0	0	0	130
13:00	4	89	20	0	11	0	4	2	0	0	0	0	0	130
14:00	4	116	30	2	10	4	4	2	0	2	0	0	0	174
15:00	8	126	35	1	15	5	4	0	4	1	0	0	0	199
16:00	4	117	25	3	15	0	0	0	0	0	0	0	0	164
17:00	4	132	26	2	8	2	0	0	0	0	0	0	0	174
18:00	4	74	19	0	7	2	0	4	0	0	0	0	0	110
19:00	0	45	10	0	4	0	0	0	0	0	0	0	0	59
20:00	0	39	11	0	3	0	0	0	0	0	0	0	0	53
21:00	4	16	5	0	0	0	0	0	0	0	0	0	0	25
22:00	0	6	0	0	0	0	0	0	0	0	0	0	0	6
23:00	0	7	0	0	0	0	0	0	0	0	0	0	0	7
Day Total	58	1624	404	19	162	39	19	26	24	3	0	0	4	2382
Percent	2.4%	68.2%	17.0%	0.8%	6.8%	1.6%	0.8%	1.1%	1.0%	0.1%	0.0%	0.0%	0.2%	
AM Peak	07:00	07:00	08:00	06:00	11:00	02:00	09:00	06:00	07:00				10:00	07:00
Vol.	5	155	32	2	13	4	4	4	4				4	204
PM Peak	15:00	17:00	15:00	12:00	15:00	15:00	13:00	12:00	15:00	14:00				15:00
Vol.	8	132	35	3	15	5	4	4	4	2				199

All Traffic Data Services
Wheat Ridge, CO 80033

Date Start: 16-Oct-18
Date End: 18-Oct-18
Site Code: 139
Mox Chehalis Rd S-O McCleary Rd

SB

Start Time	Bikes	Cars & Trailers	2 Axle Long	Buses	2 Axle 6 Tire	3 Axle Single	4 Axle Single	<5 Axl Double	5 Axle Double	>6 Axl Double	<6 Axl Multi	6 Axle Multi	>6 Axl Multi	Total
10/18/18	0	4	0	0	0	0	0	0	0	0	0	0	0	4
01:00	0	1	0	0	0	0	0	0	0	0	0	0	0	1
02:00	0	9	0	0	0	4	0	0	1	0	0	0	0	14
03:00	0	15	4	0	2	0	0	0	0	0	0	0	0	21
04:00	0	29	9	0	2	2	0	0	0	0	0	0	0	42
05:00	2	62	18	0	11	0	0	0	2	0	0	0	0	95
06:00	2	137	27	2	12	0	0	0	0	0	0	0	0	180
07:00	2	170	31	2	10	7	4	4	4	0	0	0	0	234
08:00	2	125	21	4	8	8	4	0	2	0	0	0	0	174
09:00	8	96	21	2	12	8	8	0	4	0	0	0	0	159
10:00	0	99	23	0	2	6	4	4	4	0	0	0	0	142
11:00	2	100	23	0	14	4	4	2	2	0	0	0	0	151
12 PM	4	103	20	2	14	6	2	4	6	0	0	0	0	161
13:00	8	118	37	4	8	2	4	4	4	0	0	0	0	189
14:00	3	102	39	3	11	4	7	0	0	0	0	0	0	169
15:00	4	116	29	4	8	0	4	0	0	0	0	0	0	165
16:00	2	139	28	0	12	4	2	4	0	0	0	0	0	191
17:00	0	92	36	2	12	0	0	2	2	0	0	0	0	146
18:00	0	72	38	0	4	0	0	3	0	0	0	0	0	117
19:00	0	55	10	0	2	0	0	0	0	0	0	0	0	67
20:00	2	38	4	0	4	4	0	0	0	0	0	0	0	52
21:00	4	19	7	0	4	0	0	0	0	0	0	0	0	34
22:00	0	17	3	0	3	0	0	0	0	0	0	0	0	23
23:00	0	8	3	0	0	0	0	0	0	0	0	0	0	11
Day Total	45	1726	431	25	155	59	43	27	31	0	0	0	0	2542
Percent	1.8%	67.9%	17.0%	1.0%	6.1%	2.3%	1.7%	1.1%	1.2%	0.0%	0.0%	0.0%	0.0%	
AM Peak	09:00	07:00	07:00	08:00	11:00	08:00	09:00	07:00	07:00					07:00
Vol.	8	170	31	4	14	8	8	4	4					234
PM Peak	13:00	16:00	14:00	13:00	12:00	12:00	14:00	12:00	12:00					16:00
Vol.	8	139	39	4	14	6	7	4	6					191
Grand Total	133	5015	1268	68	454	142	62	90	74	3	0	0	4	7313
Percent	1.8%	68.6%	17.3%	0.9%	6.2%	1.9%	0.8%	1.2%	1.0%	0.0%	0.0%	0.0%	0.1%	

Replaces Title 10.12 of McCleary Municipal Code and Revision to Ord. 777

1. Maintenance of proper streets is necessary for the public health and safety.
2. Travel over certain of the streets by trucks or motor vehicles having a weight greater than the amount specified herein creates an undue risk of damage to those streets, thereby creating a hazardous situation.

Those certain streets and portions of streets or avenues specified in Attachment Number 1 are hereby designated as truck routes.

On and after the _____ day of _____, 201_, it shall be unlawful for any person to drive or to operate a motor vehicle having a gross weight greater than fourteen thousand pounds on any street or alley within the corporate limits except on such streets or alley designated on this Ordinance: PROVIDED, however, that vehicles of a greater weight or larger capacity may be operated from said truck route upon other streets when it is necessary to do so for the purpose of making deliveries for the purpose of picking up merchandise or articles to be transported in such vehicles: PROVIDED that in making such deliveries or pickups they shall be made from the shortest reasonable route from the above-named truck routes: PROVIDED still further that, upon application of the owner or operator, the public works director or his designee may issue a special permit for the operation of the larger vehicle on other streets where it is necessary to do so. Such permit shall be valid; the gross weight limit allowed; and may be conditioned, in the discretion of the public works director or his designee on the posting of such performance bond as may be reasonably necessary to ensure that any damage done to the streets is repaired.

Overload permit – Required.

Overload permit – Application.

Overload permit – Time limitation.

Overload permit – Restrictions.

Overload permit – Fees.

Overload permit – Exemptions.

Approved routes for overweight vehicles.

Temporary restrictions.

Overweight vehicle parking restrictions.

Violation – Penalty.

Overload permit – Required.

It is unlawful, without a valid permit, to operate any vehicle on a street or alley of the city with a licensed gross vehicle weight in excess of fourteen thousand pounds.

Overload permit – Application.

Permits to operate an overloaded vehicle may be obtained from the city. Application for overload permit shall be in the form prescribed by the city. Said permit shall require the following information:

- A. Name, address and telephone number of the applicant.
- B. Nature of load (type of material and/or equipment to be transported).
- C. Location by name and address of job site or place of delivery.
- D. Vehicle type, year and license number.
- E. Estimate of time in days that the permit will be required.
- F. Gross licensed weight of the vehicle.
- G. Proposed route to be approved by the city setting forth the streets upon which said vehicle will be driven.
- H. Proof of liability insurance as required by state law.

Overload permit – Time limitation.

Permits will be valid only for the length of time necessary to complete a particular job or delivery and in no case shall be for longer than one year.

Overload permit – Restrictions.

The city shall, following those standards used in RCW **46.44.093**, issue or withhold overload permits at its discretion or make reasonable requirements for the operation of said vehicles when necessary to assure against damage to road or street foundation or surfaces, safety of other traffic and may require such measures to protect the city's roads, streets and roadbeds.

Overload permit – Fees.

Permit fees shall be established by the city council as set forth in this Ordinance. Applicants may pay for a permit on an annual basis under terms set forth below:

Overload permits (legal load is fourteen thousand lbs.):

<i>Amount over 14,000 lbs.</i>	<i>1 Day</i>	<i>1 Year</i>	<i>Class #</i>
<i>14,001 – 16,000</i>	<i>\$30.00</i>	<i>\$120.00</i>	<i>4</i>
<i>16,001 – 19,500</i>	<i>\$45.00</i>	<i>\$170.00</i>	<i>5</i>
<i>19,001 – 26,000</i>	<i>\$60.00</i>	<i>\$220.00</i>	<i>6</i>
<i>26,001 – 33,000</i>	<i>\$90.00</i>	<i>\$280.00</i>	<i>7</i>
<i>33,001 – 80,000</i>	<i>\$130.00</i>	<i>\$330.00</i>	<i>8</i>
<i>>80,001 Shall Use State Highway System</i>			

If truck is under legal load limit, no charge or permit is required.

Overload permit – Exemptions.

The following vehicles shall be exempt from the permit process described in this chapter.

- A. All vehicles owned and operated by governmental agencies.
- B. Emergency vehicles, solid waste disposal vehicles, and school buses.
- C. Vehicles transporting perishable goods or commodities to locations within the city for local delivery.
- D. Recreational vehicles including motor homes, campers, and travel trailers.

E. Tractors of combination vehicles belonging to or operated by persons permanently residing within the city limits and used for commuting to work places located outside of the city limits. Drivers of said vehicles shall register them with the city including the name and address of the owner and/or driver, vehicle license number, and shall obtain from the public works director an approved route into and out of the city. A condition of the issuance of such exemption is that said vehicle will not be allowed to run at idle within the city limits for more than ten minutes and said vehicles shall not park on any city right-of-way, and shall park on hard surfaces such as concrete, asphalt and gravel.

Approved routes for overweight vehicles.

Overweight vehicles and those vehicles in excess of eight feet in width, those vehicles in excess of thirty feet in length including tractor and trailer, and all vehicles transporting radioactive or hazardous cargo, may operate on the following city streets without permit:

A. West Simpson Ave

B. North Summit Road to the State Route 108 intersection

It is the purpose of this section to restrict truck traffic in the city of McCleary to the maximum extent possible to the state highway system. In furtherance of this purpose, all trucks, truck tractors, truck and trailer combinations or truck tractor and semitrailer combinations over eight feet in width, over 30 feet in length, or over 80,000 pounds licensed gross weight, and all vehicles transporting radioactive or hazardous cargo, shall be restricted to the state highway system.

Temporary restrictions.

The public works director or his designee may temporarily prohibit the operation of any vehicles or may impose weight limits different than those set forth herein when the public streets due to temporary conditions will be damaged by use by any vehicles unless said use or vehicle weight is restricted. Signs setting forth the temporary conditions shall be erected stating that the use of the street or right-of-way is restricted.

Overweight vehicle parking restrictions.

No overweight vehicle shall be parked within the city except for those vehicles registered with the city pursuant to this Ordinance.

Permit Decal Required.

Possession of a permit as required by MMC must be evidenced by a permit decal, issued by the City Clerk's Office, and prominently displayed on the upper right front windshield of such truck.

Violation – Penalty.

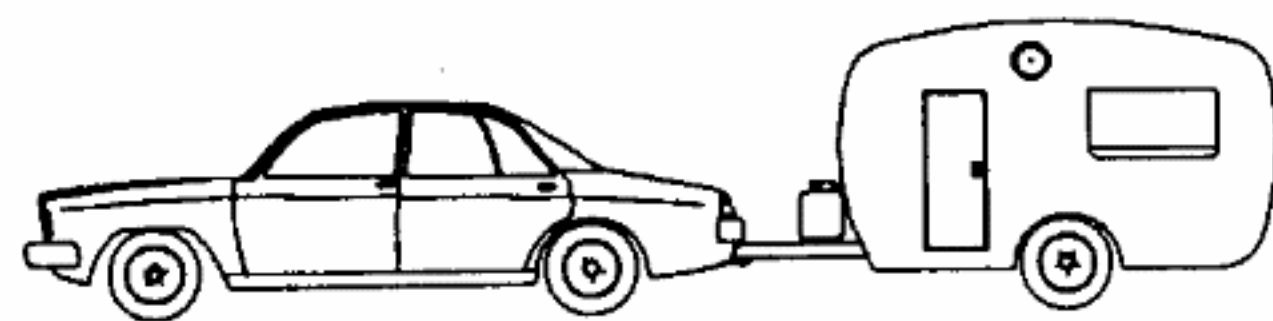
Any person violating the provisions of this Chapter shall be subject to the following penalties:

A. Upon a finding of committed as to up to two notices of infraction alleging a violation of this ordinance within any twelve-month period, the party shall be subject to a penalty not to exceed \$300: PROVIDED: that the court upon such finding may also require restitution for any damage suffered.

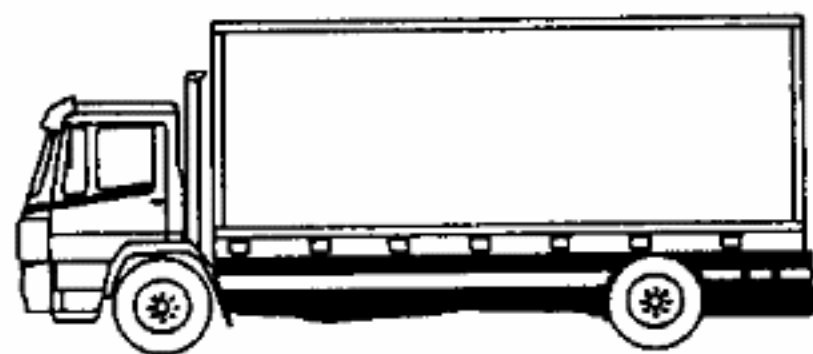
B. Upon a third or subsequent finding of violation within any twelve-month period, the party shall be subject to punishment as provided in the general penalty provision of the first paragraph of section 1.20.010 M.M.C., as now existing or hereafter amended or supplanted: PROVIDED that, in addition to any fine or fair sentence, restitution for any damage may be required.



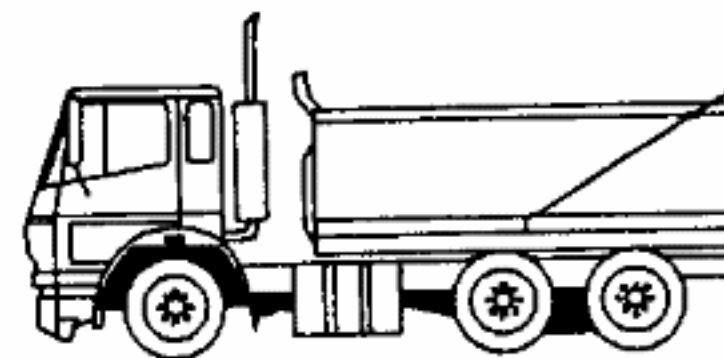
Class 1
Short Vehicle



Class 2
Short Vehicle Towing



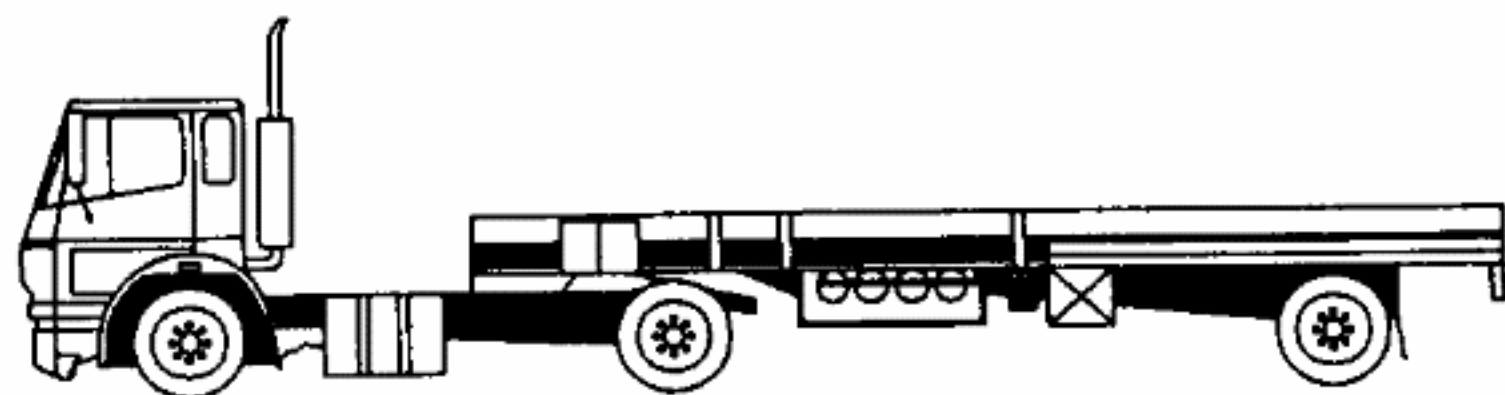
Class 3
Two Axle Truck



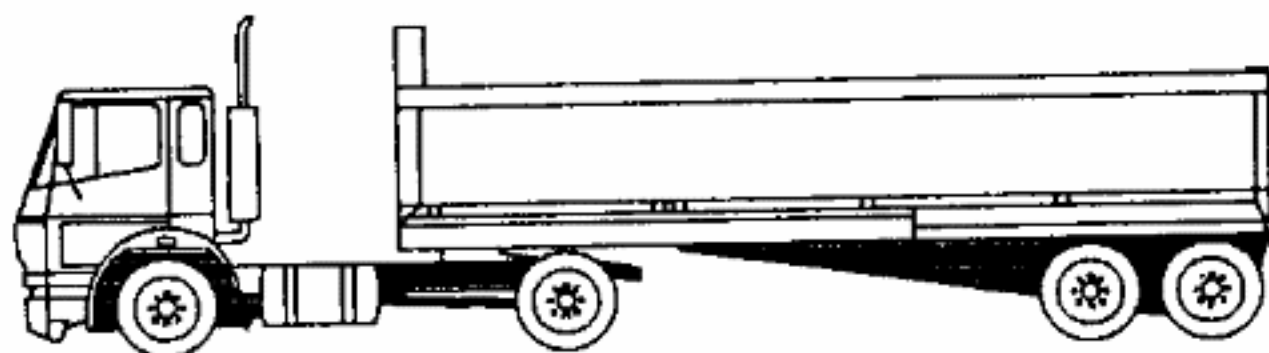
Class 4
Three Axle Truck



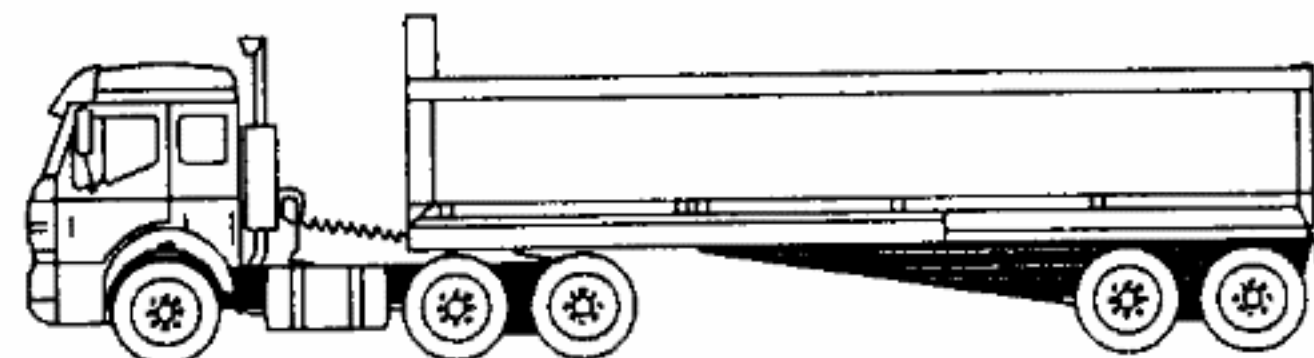
Class 5
Four Axle Truck



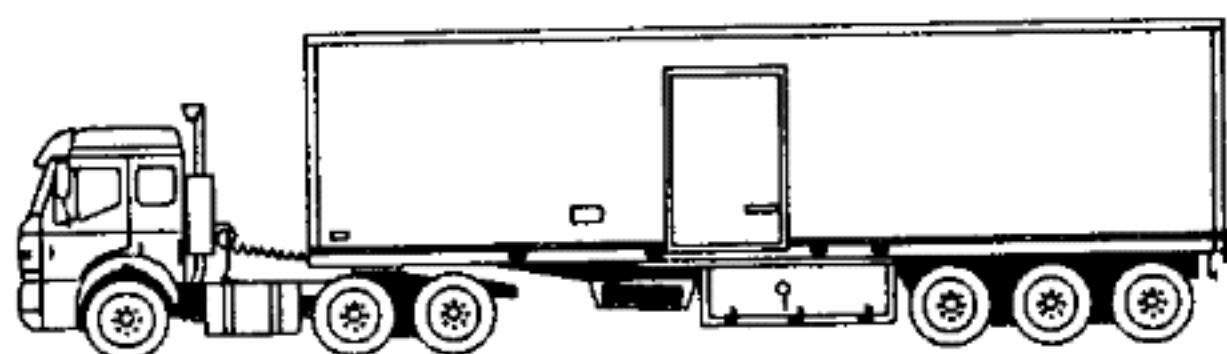
Class 6
Three Axle Articulated Vehicle



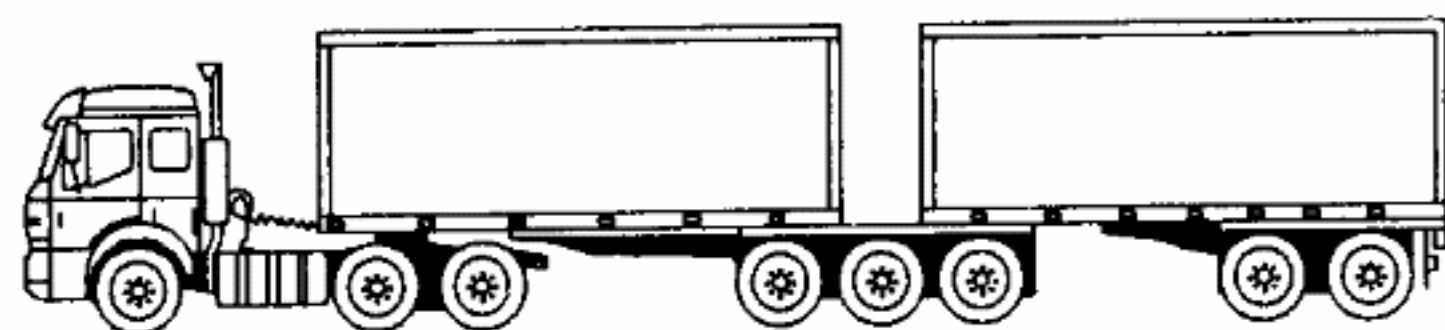
Class 7
Four Axle Articulated Vehicle



Class 8
Five Axle Articulated Vehicle



Class 9
Six Axle Articulated Vehicle



Class 10
B Double



Class 11
Double Road Train



Class 12
Triple Road Train

- Class 1: GVWR of 0 to 6,000 pounds
- Class 2: GVWR of 6,001 to 10,000 pounds
- Class 3: GVWR of 10,001 to 14,000

Medium-Duty Trucks

- Class 4: GVWR of 14,001 to 16,000 pounds
- Class 5: GVWR of 16,001 to 19,500 pounds
- Class 6: GVWR of 19,501 to 26,000 pounds

Heavy-Duty Trucks

Note: operators in this category must hold a Class B CDL to drive the vehicle.

- Class 7: GVWR of 26,001 to 33,000 pounds
- Class 8: GVWR of 33,001 pounds or more



City of McCleary
Home of the McCleary Bear Festival

APPLICATION FOR OVERLOAD PERMIT

OVERLOAD PERMIT # _____

COMPANY NAME:		DOT #:	
PHYSICAL ADDRESS:		STATE:	ZIP:
MAILING ADDRESS:		STATE:	ZIP:
CONTACT PERSON:	PHONE:	EMAIL	

Detailed Description of Non-Reducible Load or Vehicle		
<hr/>		
<hr/>		
<hr/>		
<hr/>		
<hr/>		
<hr/>		
DATE OF TRAVEL:	DESTINATION:	ESTIMATED TRIPS:

Complete Proposed Route of Travel in City Limits							
BEGINNING STREET		ENDING STREET		OTHER STREETS		TIME SPENT IN CITY LIMITS	# OF DAILY TRIPS
GVW:	WIDTH:	HEIGHT:	TRAILER LOAD:	# OF AXLES:	FRONT OVERHANG:	REAR OVERHANG:	
<u>FOR OFFICE USE ONLY</u>							
Date Received and Initials:				APPROVED BY:			
SPECIAL CONDITIONS							
<hr/>							

CITY OF McCLEARY OVERSIZE PERMITS

Permit Number	Date of Issue	Permit Amount	Issued By	Vehicle Type, Year, License Number, Color	Gross Vehicle Weight	Applicant Name & Phone Number
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RCW 46.44.080**Local regulations—State highway regulations.**

Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: PROVIDED, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue damage: PROVIDED FURTHER, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage.

RCW [46.44.090](#)

Special permits for oversize or overweight movements.

The department of transportation, pursuant to its rules with respect to state highways, and local authorities, with respect to public highways under their jurisdiction, may, upon application in writing and good cause being shown therefor, issue a special permit in writing, or electronically, authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle, or load exceeding the maximum set forth in RCW [46.44.010](#), [46.44.020](#), [46.44.030](#), [46.44.034](#), and [46.44.041](#) upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible. [[2006 c 334 § 17](#); [2001 c 262 § 1](#); [1977 ex.s. c 151 § 30](#); 1975-'76 2nd ex.s. c 64 § 13; [1961 c 12 § 46.44.090](#). Prior: [1951 c 269 § 34](#); prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

NOTES:

Effective date—2006 c 334: See note following RCW [47.01.051](#).

Federal requirements—1977 ex.s. c 151: See RCW [47.98.070](#).

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW [46.16A.455](#).

TAB - F

TAB - G

TAB - H

STAFF REPORT

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

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

Below is more information about our CAO update.

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

There are five types of critical areas:

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

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

The intent of the current update is to:

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

Action Requested:

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

ORDINANCE NO. _____

AN ORDINANCE RELATING TO CRITICAL AREAS; ADOPTING DEFINITIONS, AMENDING CERTAIN SECTIONS OF CHAPTER 18.08 MMC, ADDING NEW SECTIONS TO CHAPTER 18.08 MMC, ESTABLISHING PROCEDURES; ADDING NEW SECTIONS TO CHAPTER 18 OF THE MUNICIPAL CODE; AND PROVIDING FOR INTERPRETATION, SEVERABILITY, AND AN EFFECTIVE DATE.

R E C I T A L S:

1. The Council and Mayor have received the recommendations of the involved City staff as to the updating of the provisions of the Municipal Code relating to critical area delineation, processing, protection, and related matters.

2. All necessary environmental reviews have been completed.

3. It is the intention of the Council to adopt the recommendations as set forth in the following sections.

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

SECTION I: Section 18.08.030 and Section 2, Ordinance 703 are each amended to read as follows:

Definitions.

When used in this Chapter, the following definitions shall apply:

1. Administrator or Director: the (~~City Administrator~~) Director of Public Works or his/her designee.

2. Applicant: any person who files a permit application with the City of McCleary and who is either the owner, beneficial owner, contract purchaser, or authorized agent of such owner of the land on which the proposed activity would be located.

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

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

4. Critical areas: includes the following areas and ecosystems as defined in RCW 36.70A.030 and WAC 365-195-200, as now existing or hereafter amended or succeeded:

- a. Wetlands;
- b. Areas with a critical recharging effect on aquifers used for potable water;
- c. Fish and wildlife habitat conservation areas;
- d. Frequently flooded areas; and
- e. Geologically hazardous areas.

5. Fish and wildlife habitat area: land managed for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state. Fish and wildlife habitat conservation areas include areas with which endangered, threatened, and sensitive species have a primary association; waters of the state; state natural area preserves and natural conservation areas; and streams and rivers planted with game fish by a governmental agency.

6. Frequently flooded areas: lands in the flood plain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like. The 100-year flood plain designations of the National Flood Insurance Program delineate the presence of frequently flooded areas.

7. Geologically hazardous areas: areas that, because of the susceptibility to erosion, sliding, earthquake, or other geological events, are not generally suited to locating commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas have slopes greater than 15% with known erosion, landslides, settling, rockslide, debris flow and/or seismic hazards as defined by the US Department of Agriculture Soil Conservation Service.

8. Wetland or wetlands: areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include

those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

9. Qualified expert: a person preparing a technical assessment who has expertise appropriate to the relevant critical area. Expertise shall consist of professional credentials and/or certification, any advanced degrees earned in the pertinent scientific discipline from a recognized university, the number of years of experience in the pertinent scientific discipline, recognized leadership in the discipline of interest, formal training in the specific area of expertise, and field and/or laboratory experience with evidence of the ability to produce peer-reviewed publications or other professional literature. Geologists preparing technical assessments shall meet the requirements of a licensed geologist under Chapter 18.220 RCW.

SECTION II: Section 18.08.040 and Section 3, Ordinance 703 are each amended to read as follows:

Compliance with critical areas protection.

All public and private land uses in the city of McCleary subject to the provisions of this chapter shall comply with the requirements of this chapter as a condition to the issuance of any permit requested under Titles 15, 16 and 17 of the McCleary City Code. The city shall deny any permit that fails to protect a critical area as required in this chapter, except as provided in Section ~~(18.08.040 and)~~ 18.08.050 or the issuance of which is otherwise required or authorized by a provision of this chapter.

SECTION III: Section 18.08.050 and Section 4, Ordinance 703 are each amended to read as follows:

Exempt Activities in Critical Areas.

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

- A. Conservation, enhancement, restoration, or preservation measures or projects;
- B. Low intensity, passive recreational uses;
- C. Short-term scientific studies and educational uses;
- D. Repair and maintenance of existing public roads, bridges, and storm water facilities;
- E. Walkways (~~without structures~~) and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.;
- F. Public parks;
- ~~GF.~~ Site investigation work necessary for land use applications; and

HG. (Forest practices governed by RCW 76.09) The growing and harvesting of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974, as amended, and regulations adopted pursuant thereto; including, but not limited to, road construction and maintenance; aerial operations; applications of fertilizers and pesticides; helispots; and other uses specific to growing and harvesting timber forest products and management activities, except those Forest Practices designated as "Class IV -General Forest Practices" under the authority of the "Washington State Forest Practices Act Rules and Regulations," WAC Chapter 222, as now existing or hereafter amended or succeeded, PROVIDED FURTHER THAT compliance with this chapter is required for all new construction, grading, land clearing, and other uses subject to Section 18.08.080, and any Class IV Conversion Permit issued pursuant to the State Forest Practices Act, which involves conversion to a Permit Required Use.

SECTION IV: Section 18.08.070 and Section 6, Ordinance 703 are each amended to read as follows:

Technical assessments required.

A. Applications for any permit approval under Titles 15, 16 and 17 of the McCleary City Code shall indicate whether any critical area is located on or within ~~(two)~~ three hundred (300) feet of the site. The ~~(administrator)~~ director or designated representative shall visit the site, and in conjunction with a review of the comprehensive land use plan, information provided by the applicant, and any other suitable information, make a

determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient, the administrator shall notify the applicant to provide additional information in the technical assessments before the issuance of any determination of completeness under Titles 16 and 17 or permit issued under Title 15.

B. It is the responsibility of the applicant to provide the city with appropriate technical assessments prepared by a qualified expert, whose selection is acceptable to the city, to fulfill the requirements of an application for a permit under Titles 16 and 17, or a building permit issued under Title 15. The applicant shall pay all expenses associated with the preparation of any technical assessment required by the city. Technical assessments shall use the best science available in accordance with RCW 36.70A.172.

SECTION V: Section 18.08.080 and Section 7, Ordinance 703 are each amended to read as follows:

Wetland delineation and protection.

A. Fundamental Goals: The city shall regulate development activities to protect wetlands. Development activities shall not diminish the capacity of wetlands to:

1. Provide flood and storm water control;
2. Recharge the aquifer;
3. Improve surface and ground water quality by trapping sediments, removing nutrients, and providing chemical detoxification;

4. Stabilize the streambed along Wildcat Creek;
5. Preserve or enhance anadromous fisheries; and
6. Protect (~~Jeopardize~~) federally listed endangered and threatened species.

B. Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary.

C. Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by the Department of Ecology).

D. The city adopts by reference the following maps and best available science resources for wetlands in the city of McCleary and the urban growth area:

1. National Wetlands Inventory Map, US Fish and Wildlife Service.
2. Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County Washington, Map Sheet 41, USDA, 1986.

~~(3. Washington State Wetlands Identification and Delineation Manual, Washington Department of Ecology, 1997, Publication #96-94;~~

~~4. Washington State Wetland Rating System for Western Washington, Washington Department of Ecology, 1993, Publication #93-74; and 5)~~

E. If the location, designation, or classification of a wetland shown on any map adopted through the ordinance codified in this chapter or the comprehensive land use plan is in conflict with the determination of any field investigation, the latter shall prevail.

F. The city prohibits development activities in wetlands unless:

1. No practical alternative exists for locating the project elsewhere on the property; or
2. The prohibition precludes any reasonable use of the property.

~~A wetland buffer that separates a wetland boundary from a regulated use is mandatory to mitigate adverse impacts of development activities. The following standards shall apply when determining buffer widths:~~

G. A wetland buffer that separates a wetland boundary from a regulated use is mandatory to mitigate adverse impacts of development activities. The following buffer widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington:

2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology).

The adjacent land use intensity is assumed to be high.

1. Buffer widths are measured perpendicularly from the wetland boundary.

~~Buffer widths are determined according to a wetland's rating:~~

~~a. Category I wetlands require a buffer width of two hundred feet;~~

~~b. Category II wetlands require a buffer width of one hundred feet;~~

~~c. Category III wetlands require a buffer width of fifty feet; and~~

~~d. Category IV wetlands require a buffer width of twenty five feet.~~

2. For wetlands that score 5 points or more for habitat function, the buffers

in Table F.1 can be used if the following criteria are met:

a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife.

b. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

c. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table F.1 may be used with the required measures in Table F.2 alone.

e. The measures in Table F.2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.

3. For wetlands that score 3-4 habitat points, only the measures in Table F.2 are required for the use of Table F.1.

4. If an applicant chooses not to apply the mitigation measures in Table F.2, or is unable to provide a protected corridor where available, then Table F.3 must be used.

5. The buffer widths in Table F.1 and F.3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

~~A technical assessment prepared by a qualified expert may reduce the required buffer width if it will not adversely affect the function of the wetland or that the use of other mitigation measures achieves the same result.~~

Table F.1 Wetland Buffer Requirements for Western Washington
if Table F.2 is Implemented and Corridor Provided

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I: Based on total score	75	105	120	150
Category I: Forested	75	105	120	150
Category I: Bogs and Wetlands of High Conservation Value	190			
Category I: Alkali	150			
Category II: Based on total score	75	90	120	150
Category II: Vernal pool	150			
Category II: Forested	75	105	120	150
Category III (all)	60	90	120	150
Category IV (all)	40			

Table F.2 Required measures to minimize impacts to wetlands
(Measures are required if applicable to a specific proposal)

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> · Direct lights away from wetland
Noise	<ul style="list-style-type: none"> · Locate activity that generates noise away from wetland · For activities that generate relatively continuous potentially disruptive noise, such as certain heavy · For activities that generate relatively continuous potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> · Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered · Establish covenants limiting use of pesticides within 150 ft of wetland · Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> · Retrofit stormwater detention and treatment for roads and existing adjacent development · Prevent channelized flow from lawns that directly enters the buffer · Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)
Change in water regime	<ul style="list-style-type: none"> · Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns

Disturbance	Required Measures to Minimize Impacts
Pets and human disturbance	<ul style="list-style-type: none"> · Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; · Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> · Use best management practices to control dust

Table F.3 Wetland Buffer Requirements for Western Washington
if Table F.2 is NOT Implemented or Corridor NOT provided

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I: Based on total score	100	140	220	300
Category I: Bogs and Wetlands of High Conservation Value	250			300
Category I: Coastal Lagoons	200		220	300
Category I: Interdunal				300
Category I: Forested	100	140	220	300

Category I: Estuarine	200 (buffer width not based on habitat scores)			
Category II: Based on score	100	140	220	300
Category II: Interdunal Wetlands	150		220	300
Category II: Estuarine	150 (buffer width not based on habitat scores)			
Category III (all)	80	140	220	300
Category IV (all)	50			

H. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

2. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.

3. The total buffer area after averaging is equal to the area required without averaging.

4. The buffer at its narrowest point is never less than either $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

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

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

J. Mitigation ratios shall be consistent with the following table. Mitigation requirements may also be determined using the credit/debit tool described in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final*

Report (Ecology Publication #10-06-011, Olympia, Washington, March 2012, or as revised)

consistent with subsection H of this Chapter.

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

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

1. The exact location of the wetland boundary;
2. An evaluation of wetland functions and values;

3. An analysis of how the proposed use would or would not diminish the wetland protection standards under subsection A of this section; and

4. Recommendations for mitigating adverse environmental impacts on wetland values and functions during construction and post-construction.

SECTION VI: Section 18.08.110 and Section 10, Ordinance 703 are each amended to read as follows:

Fish and wildlife habitat conservation areas: delineation and protection.

A. The city shall regulate development activities in fish and wildlife habitat conservation areas to maintain species in suitable habitats within their natural geographic distribution and to prevent isolated subpopulations. In addition, the city shall consider conserving or protecting anadromous fisheries in Wildcat Creek.

B. The city adopts by reference the following maps and best available science resources for fish and wildlife habitat conservation areas in the McCleary urban growth area:

1. Priority Habitat Maps, Washington Department of Fish and Wildlife; and
2. Salmon and Steelhead Limiting Factors, Water Resource Inventory Areas 22 and 23, by Carol Smith and Mark Wenger, Washington Conservation Commission, June 2001.

C. A qualified expert shall prepare any technical assessment required by the city for development activities on parcels located within two hundred feet of a fish and wildlife habitat conservation area. The technical assessment shall include:

1. An analysis and discussion of species or habitats known or suspected to be located within two hundred feet of the site;

2. Evaluation of the effects of the proposed development activities and its ability to meet the established standards of Section 18.08.100(A) of this chapter; and

3. Recommended mitigation measures to ensure compliance with the standards set forth under Section 18.08.100(A). In cases where a fish and wildlife habitat conservation area is on or adjacent to a development site, the following provisions shall apply: ~~a minimum separation of up to fifty feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.~~

a. Types 1 and 2 streams, will be regulated by the City of McCleary Shoreline Master Program.

b. Type 3 streams or other perennial or fish bearing streams that are five to 20 feet wide, a minimum separation of up to 200 feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.

c. Type 3 streams or other perennial or fish bearing streams that are less than five feet wide, a minimum separation of up to 150 (feet) may be required for regulated uses if the technical assessment indicates the need for such a buffer.

d. Type 4 and 5 streams or intermittent streams with low mass wasting potential, a minimum separation of up to 150 feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.

e. Type 4 and 5 streams or intermittent streams with high mass wasting potential, a minimum separation of up to 225 feet may be required for regulated uses if the technical assessment indicates the need for such a buffer.

These widths are measured on each side of the stream, starting at the ordinary high water line. However, if the stream reach is located in a broad, alluvial valley and able to migrate across the valley, these width measurements begin at the edge of the channel migration zone (the area within which a stream has or may migrate laterally under its current geomorphic regime-it is commonly defined by historic meander limits or meander belt width.

D. The Public Works Director may allow the recommended habitat area buffer width to be averaged in accordance with a critical area report, the most current, accurate, and complete scientific or technical information available, and the management recommendations issued by the Washington State Department of Fish and Wildlife, only if:

1. It will not reduce stream or habitat functions;
2. It will not adversely affect salmonid habitat;
3. It will provide additional natural resource protection, such as buffer enhancement;
4. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

5. The buffer area width is not reduced by more than 25 percent in any location.

E. The following alterations may be made within the buffer upon approval of a plan by the Public Works Director, when consistent with all other provisions of this chapter:

1. Outdoor recreational activities, including fishing, bird watching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;

2. Flood control activities;

3. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas;

4. Minor modification of existing serviceable structures within a buffer zone;

5. Trails, footbridges, and water-related public park facilities;

6. Utility lines and related facilities.

SECTION VII: A new section shall be added to Chapter 18.08 MMC to read as follows:

Pre-existing Uses.

Uses legally existing as of the date of adoption of this ordinance may continue operation pursuant to the following provisions and procedures. The purpose of these provisions is to assure that pre-existing uses are brought into compliance with the provisions of this chapter over time and to the highest degree possible. These provisions shall not be

construed to mean that a preexisting use must cease. The following procedures and requirements are hereby established in relation to such pre-existing uses:

A. Legal Pre-existing Use Compliance Agreements: Upon identification of a legal pre-existing use, the city shall contact the person in control and/or owner in order to develop a compliance plan and time line for bringing the pre-existing use into compliance to the highest degree practicable and which provides an acceptable low level of risk. Such compliance plans shall be developed, implemented, and enforced as follows:

1. The city will negotiate with the person in control of and/or owner the subject property to identify a reasonable time frame and necessary steps to bring the use into compliance with this chapter.

2. To the extent reasonably available to it, technical assistance will be offered to the person in control of and/or the owner of the subject property by state and/or local personnel to enable the person in control and/or owner to bring the use into compliance.

3. The city will require that a written compliance plan be developed and agreed to by the person in control and/or owner setting forth the compliance steps that will be taken and the agreed time frame within which these steps will be completed.

4. Following identification of the preexisting use, the compliance plan shall be agreed to in a reasonable time, as defined by the Public Works Director on a case-by-case basis.

5. Such compliance plan will be in the form of a contract between the city and the person in control and/or owner.

6. No expansion of any non-conforming aspect of the use will be permitted.

7. Failure to meet the terms of the contract, including time frames agreed to, shall constitute a breach of contract subject to all applicable laws. If legal action on the part of the city becomes necessary to enforce the contract, the contract shall provide that the person in control and/or owner shall be liable for all expenses incurred by the City in enforcing the Agreement, including expenses incurred in the litigation, as well as in correcting the non-compliance.

B. Development Proposals within Interrupted Stream or Wetland Buffers:

Adjacent areas that may be physically separated from a stream or wetland due to existing, legally established structures or paved areas may be exempted from the prescribed buffer widths if proven scientifically to be functionally isolated from the stream or wetland. The director will require the applicant to provide a site assessment and functional analysis documentation report by a qualified critical area consultant that demonstrates the interrupted buffer area is functionally isolated. The director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation.

SECTION VIII: A new section shall be added to Chapter 18.08 MMC to read as follows:

Temporary Uses.

The Public Works Director shall have the authority to authorize temporary uses pursuant to the terms and conditions of this section. This section provides a process for authorizing certain uses or activities of a nonpermanent nature for a limited duration.

A. The application shall contain those requirements the Public Works Director deems appropriate based on the duration of the use and its potential for environmental impact.

B. Temporary uses shall be consistent with all standards set forth in this Chapter. For any temporary use the city shall impose such other reasonable conditions as may be found necessary to ensure that the activity or use is not incompatible with surrounding conforming uses and will not result in a potential environmental impact.

C. Certificates of Temporary Use shall expire according to the terms set forth in the approval and / or may be revoked by the Public Works Director if terms of the Temporary Use are not followed.

SECTION IX: A new section shall be added to Chapter 18.08 MMC to read as follows:

Reasonable use exceptions.

A. If the application of this Chapter would deny all reasonable use of a site, development may be allowed pursuant to this section which is consistent with the general purposes of this Chapter and the public interest. Nothing in this Chapter is intended to preclude all reasonable use of property.

B. An applicant for a development proposal may file a request for a reasonable use exception which shall be considered by the Public Works Director. Such an application shall contain the following information:

1. A description of the areas of the site which are critical areas and/or resource lands or within setbacks required under this Chapter;
2. A description of the amount of the site which is within setbacks required by other jurisdiction standards;
3. A description of the proposed development, including a site plan;
4. An analysis of the impact that the amount of development would have on the resource lands or critical areas;
5. An analysis of whether any other reasonable use with less impact on the resource lands or critical areas is possible;

6. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the resource lands and/or critical areas;

7. Such other information as the Public Works Director determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.

C. After review of the application and the completion of any necessary reviews, the Public Works Director may approve the reasonable use exception if the Public Works Director determines all of the following criteria are reasonably met:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the resource lands or critical areas;

2. The proposed development does not pose a threat to the public health, safety or welfare on or off the site;

3. Any alteration of the resource lands and/or critical areas shall be the minimum necessary to allow for reasonable use of the property;

4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of the Chapter; and

5. The proposal mitigates the impact on the resource lands and/or critical areas to the maximum extent possible, while still allowing reasonable use of the site.

SECTION X: A new section shall be added to Chapter 18.08 MMC to read as follows:

Building Setback Lines.

Minor structural intrusions into the area of the building setback identified pursuant to this Chapter may be allowed if the Public Works Director determines that such intrusions will not negatively impact the wetland.

SECTION XI: A new section shall be added to Chapter 18.08 MMC to read as follows:

Signs and Fencing of Wetlands and Buffers.

As a condition of any permit or authorization issued pursuant to this chapter, the Public Works Director may require the outer perimeter of the wetland buffer and/or the clearing limits identified and marked in the field with signs and/or fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Public Works Director or his/her designee, prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

As a condition of any permit or authorization issued pursuant to this chapter, the Public Works Director may require the applicant to install permanent signs and/or fencing along the boundary of a wetland or buffer.

SECTION XII: A new section shall be added to Chapter 18.08 MMC to read as follows:

Signs and Fencing of Fish and Wildlife Habitat Conservation Areas.

A. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the Public Works Director or his/her designee prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

B. As a condition of any permit or authorization issued pursuant to this chapter, the Public Works Director may require the applicant to install permanent signs and/or fencing along the boundary of a habitat conservation area or buffer.

SECTION XIII: A new section shall be added to Chapter 18.08 MMC to read as follows:

General provisions.

A. All development proposals, whether public or private, shall comply with the requirements and purposes of this chapter and the adopted administrative rules. Lots approved for development prior to adoption of this chapter shall be vested. Responsibility for enforcement of this chapter shall rest with the director. For the purposes of this chapter, "development proposals" include proposals which require any of the following: building

permit, shoreline substantial development permit, shoreline variance, shoreline conditional use permit, conditional use permit, unclassified use permit, variance, zone reclassification, shoreline environment redesignation planned unit development, subdivision, short subdivision, master plan development, binding site plan, or any subsequently adopted permits or required approvals not expressly exempted from this chapter.

B. When sufficient information to evaluate a proposal is not available, the director shall notify the applicant that special studies are required. A special study shall include a site analysis, a discussion of potential impacts, and specific mitigation measures designed to mitigate the potential impacts. A monitoring program may be required to evaluate the effectiveness of the mitigation measures.

C. Prior to accepting a development application tendered pursuant to the zoning code or the subdivision code, the data maps shall be consulted for the purposes of determining whether or not the property subject to the application is within any area shown as a critical area or resource land. When such areas are encountered, the applicant will promptly be notified and the type(s) of critical or resource areas disclosed. Instructions shall be provided to the applicant on the type of evaluation and site-specific analysis that will be required as a supplement to the application materials necessary to bring the application up to a standard that can be characterized as complete and eligible for processing. If the subject property does not lie within or partly within the critical areas or resource lands as depicted

on the data maps, the application will be considered complete, provided the application requirements of the ordinance governing the process at issue are satisfied.

D. From the effective date of the ordinance codified in this chapter, no development application processed under the zoning or platting/subdivision titles shall be approved without a written finding that this chapter has been considered, additional information has been assembled under this chapter or was not required, and that the purpose and intent of this chapter has been accorded substantial consideration.

E. The requirements set forth in this chapter shall be considered as minimum requirements in the processing of development applications under subdivision and zoning titles and represent standards in addition to the requirements set forth in those titles.

F. No site analysis required by this chapter will be considered complete without a detailed resume of the principal author(s) which disclose(s) their technical training and experience and demonstrates their stature as qualified professionals.

Interpretation:

A. In the event that any standard, map, best available science resource adopted by reference in this Chapter is superseded by an updated successor, that successor shall be deemed to have been adopted automatically by this reference and thereafter shall be utilized in processing, consideration, and approval or denial of any application submitted after such adoption.

B. In the event that an area which is within the Critical Areas classification is also within an area subject to the City's Shoreline Management Plan, the latter shall preempt the application of the Critical Areas provisions.

C. Unless specifically exempted, compliance with this chapter is required for all new construction, grading, land clearing, and other uses subject to Titles 15, 16 and 17 of MMC, and any Class IV Conversion Permit pursuant to the State Forest Practices Act, which involves conversion to a Permit Required Use.

SECTION XIV: Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION XV: This Ordinance shall take effect upon the fifth day following date of publication: PROVIDED THAT Any project which is subject to this Chapter for which a completed application has been submitted to and accepted by the City prior to the

effective date of this ordinance shall be governed by the provisions of the Code in effect as of the date of acceptance of the completed application.

SECTION XVI: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS ____ DAY OF _____, 2019, by the City Council of the City of McCleary, and signed in approval therewith this ____ day of _____, 2019.

CITY OF MCCLEARY:

BRENDA ORFFER, Mayor

ATTEST:

WENDY COLLINS, Clerk-Treasurer
APPROVED AS TO FORM:

CHRISTOPHER COKER, City Attorney

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 _____,
2019, by WENDY COLLINS.

Print Name _____
NOTARY PUBLIC in and for the State
of Washington, residing at _____
Commission expires: _____

TAB - I

CUSTOMER PORTAL ACCESS AND USE AGREEMENT

Customer Portal (CP) is a secure web-based application that allows Bonneville Power Administration (BPA) customers and customer authorized third parties to obtain access to their own customer data from BPA source systems.

TERM OF AGREEMENT

This CP Access and Use Agreement (Agreement) will be effective at 0000 hours on the date that this Agreement has been signed by the Customer (Effective Date), and shall continue in effect until terminated by one or both Parties.

1. RESPONSIBILITIES OF CUSTOMER'S DESIGNATED CP ADMINISTRATOR(S), CP USER(S) and THIRD PARTY USER(S)

- a) The Customer shall designate the CP Administrator(s) who will manage the Customer's CP account and approve CP and Third Party user access in Exhibit A [Customer Portal Administrator(s), User(s) and Authorized Third Party User(s)] of this Agreement.
- b) The Customer shall notify BPA of any change to the designated CP Administrator(s) by preparing and submitting a revised Exhibit A to BPA.
- c) The Customer's CP Administrator(s) shall designate employees, agents, and assignees as authorized to access and use the Customer's CP, or its successor, on behalf of the Customer by preparing and submitting Exhibit A.
- d) The Customer's CP Administrator(s) shall notify BPA of any change to designated employees, agents, and assignees as authorized users of the Customer's CP by preparing and submitting a revised Exhibit A.
- e) The Customer's CP Administrator(s) shall designate Customer subsidiaries whose business information will be displayed in CP for the Customer to access and view in Exhibit B [Customer Subsidiaries] of this Agreement.
- f) The Customer's CP Administrator(s) shall notify BPA of any change to Customer subsidiaries by preparing and submitting a revised Exhibit B.
- g) Requests and exhibit revisions from the Customer or the Customer's CP Administrator(s) shall be sent to BPA per the "Notices" (Section 6) of this Agreement.
- h) For revision convenience, a blank Exhibit A and B are included with the template of this Agreement or the blank exhibits may be downloaded from the CP log-on page located at <https://customerportal.bpa.gov>. See "Notices" (Section 6) below for submittal options.

2. ACCESS TO THE CP

- (a) Currently, CP is built on a Microsoft SharePoint platform; therefore Microsoft Internet Explorer is the recommended web browser to use to access CP. Use of a web browser other than Microsoft Internet Explorer may result in negative CP performance issues.
- (b) The Customer is responsible for the acquisition and all maintenance of hardware, software and communication equipment that is necessary for its CP use. BPA will not provide any information technology support to any user(s) of CP.
- (c) The CP is owned and operated by BPA, which is part of the United States (US) Department of Energy (DOE). All uses of the CP must be in accordance with US laws, federal regulations, DOE Orders and BPA policies and directives. BPA's external website disclaimer and privacy policy applies to use of the CP, and is available at: <https://www.bpa.gov/Contact/website/Pages/Privacy-Policy.aspx>.

3. AUTHORIZED USE OF THE CP

The Customer and their designated CP User(s) and Third Party User(s) may use CP to view the Customer's information related to its business with BPA.

4. UNAUTHORIZED USE OF THE CP

The Customer shall use the CP, or its successor, as provided in Section 3 of this Agreement and shall be responsible for assuring that use of the CP by its designated CP User(s) and Third Party User(s) is consistent with this Agreement. Unauthorized use may result in the limitation, disabling or revocation of the Customer's CP login.

5. INFORMATION SECURITY

There is no expectation of privacy on the CP. All data, including e-mail, created, stored, or transmitted on the CP becomes the property of the US government. BPA's Office of Cyber Security monitors the CP in accordance with The Federal Information Security Management Act of 2002 (FISMA).

FISMA, 44 U.S.C. § 3541, et seq. is a US federal law enacted in 2002 as Title III of the E-Government Act of 2002 (Pub.L. 107-347, 116 Stat. 2899). The Act recognizes the importance of information security to the economic and national security interests of the US.

- (a) In performance of this Agreement, the Customer shall protect all information, data and information systems under its management and control at all times commensurate with the risk and magnitude of harm that could result to Federal security interests and BPA's missions and programs resulting from a loss or unauthorized disclosure of confidentiality, availability, and integrity of information, data or systems.
- (b) At a minimum, the Customer shall safeguard BPA's information, data or systems commensurate with the minimum protection requirements set forth by the National

Institute of Standards and Technology (NIST) for a “low” categorization as described in the Federal Information Processing Standard (FIPS) Publication 199.

- (c) The Customer shall maintain controls aligning with applicable controls in the current version of the NIST Special Publication 800-53, or ISO-27001:2005/2013, consistent with the risk and magnitude of harm to BPA resulting from a loss confidentiality, integrity or availability as required by the E-Government Act (Public Law 107-347) of 2002, Title III FISMA.
- (d) The BPA Chief Information Officer (CIO), or representative, shall have the right to examine, audit, and reproduce any of the Customer’s pertinent information security and/or data security plan or program.
- (e) The Customer, at its sole expense, shall address and correct any deficiencies and/or noncompliance with the terms of this Agreement as identified by BPA.

6. NOTICES

- (a) Any notice required under this Agreement shall be provided in writing to BPA in one of the following ways:
 - (1) by US Certified Mail with return receipt requested;
 - (2) electronically, if both Customer and BPA have means to verify the electronic notice’s origin, date, time of transmittal and receipt; or
 - (3) by another method agreed to by the Customer and BPA.

Notices are effective when received. BPA may change the name or address for delivery of notices by providing notice to the Customer of such change or other mutually agreed method. The Customer shall deliver notices to the following address:

BONNEVILLE POWER ADMINISTRATION
ATTN KSCS-4 (BPA CP)
PO BOX 3621
PORTLAND, OR 97208-3621

Phone: 503-230-4226
E-Mail: customerportal@bpa.gov

- (b) The Customer shall notify BPA of any actual or suspected loss, compromise or unauthorized use of the CP, including the Customer’s CP account access information.

7. ENTIRE AGREEMENT

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement.

8. CUSTOMER ACCEPTANCE

The Customer agrees to the terms and conditions for use of the CP contained in this Agreement. The signatory represents that they are authorized to enter into this Agreement on behalf of the Party for which they sign.

Customer Legal Name: _____

Name (Print/Type): _____

Signature: _____

Title: _____

Date: _____

ADDENDUM TO CUSTOMER PORTAL ACCESS AND USE AGREEMENT

This Addendum identifies the minimum technical requirements for compliance with Section 5 of the Customer Portal Access and Use Agreement (Agreement) relating to Information Security. The following controls or procedures are derived from NIST 800-53.

IA-5 AUTHENTICATOR MANAGEMENT

- g. Protecting authenticator (passwords or other authenticator) content from unauthorized disclosure and modification; and
- i. Changing authenticators for group/role accounts when membership to those accounts changes. This includes notifying BPA when a new user is needed or should be removed.

SI-2 FLAW REMEDIATION

- c. Install security-relevant software and firmware updates within the Customer's defined time period of the release of the updates.

SI-3 MALICIOUS CODE PROTECTION

- a. Implement one or more signature or non-signature based malicious code protection mechanisms on the originating device, to detect and eradicate malicious code; and
- b. Automatically update malicious code protection mechanisms whenever new releases are available in accordance with organizational configuration management policy and procedures.

MP-4 MEDIA STORAGE CONTROL

- a. Physically controls and securely stores Customer-defined types of digital and/or non-digital media within Customer-defined controlled areas; and
- b. Protects information system media until the media are destroyed or sanitized using approved equipment, techniques, and procedures.

PE-3 PHYSICAL ACCESS CONTROL

- a. Enforces physical access authorizations at the Customer's defined entry/exit points to the facility where the machine accessing the BPA system resides; or a mobile device accessing the BPA system is password protected and maintained in the physical possession and control of the Customer.

EXHIBIT A
AGREEMENT _____
CUSTOMER PORTAL ADMINISTRATOR(S), USER(S) AND AUTHORIZED THIRD
PARTY USER(S)

1. CUSTOMER PORTAL ADMINISTRATOR(S)

The Customer authorizes the following person(s) to act as its Customer Portal (CP) Administrator(s). The Customer shall notify BPA of any changes to the CP Administrator's information provided below.

Primary CP Administrator Information: Name: _____ Title: _____ Email: _____ Address: _____ _____ Phone: _____	Secondary CP Administrator Information: Name: _____ Title: _____ Email: _____ Address: _____ _____ Phone: _____		
CP Administrators are given full access to the entire CP Site.			
CP Admin Permission	Expanded CP User Permissions		
Standard	Submit EE Invoice(s)	View Fiber/Wireless Contract(s)	Submit Load Forecast(s)
X	X	X	X

2. CP USER(S) PERMISSIONS

There are two types of CP User permissions available; Standard or Energy Efficiency (EE) only.

- **Standard:**
Allows the CP User to **view** the following: bills, meter point info and meter diagrams, load and resources forecasts, contracts, EE reimbursement activity and all subsidiary site(s) listed on Exhibit B.
- **EE Only:**
Allows the CP User to view only EE information and submit EE invoices on behalf of the customer.

NOTE: ALL INFORMATION FOR SECTION 1 AND AT LEAST ONE USER IN SECTION 3 (INCLUDING PERMISSIONS) MUST BE COMPLETED BY THE CUSTOMER BEFORE SUBMITTING TO BPA.

EXHIBIT A
AGREEMENT _____
CUSTOMER PORTAL ADMINISTRATOR(S), USER(S) AND AUTHORIZED THIRD
PARTY USER(S)

Additionally, three more expanded CP User permissions can be ***added to the standard permission*** to give the CP User additional capabilities. They include Submit EE Invoice(s), Submit Load Forecast(s) and View Fiber/Wireless Contract(s).

- **Submit EE Invoice(s):**
Can be added to the Standard permission to also allow the CP User to submit EE invoice(s).
- **Submit Load Forecast(s):**
Can be added to the Standard permission to also allow the CP User to submit load and resource forecast(s).
- **View Fiber/Wireless Contract(s):**
Can be added to the Standard permission to also allow the CP User to view fiber and wireless contract(s).

3. CP USER(S)

The CP Administrator(s) authorizes the following employees, agents, and assignees as CP User(s) to access and use the Customer's CP on the Customer's behalf. CP User(s) listed below will also have access to any subsidiary sites listed in the Customer's Exhibit B, Customer Subsidiaries.

The CP Administrator(s) shall notify BPA of any changes to the CP User's information. If more than six CP User(s) will be granted access, use Exhibit A (Long Form) which allows for more than six users. Permissions must be selected for each CP User(s).

NOTE: ALL INFORMATION FOR SECTION 1 AND AT LEAST ONE USER IN SECTION 3 (INCLUDING PERMISSIONS) MUST BE COMPLETED BY THE CUSTOMER BEFORE SUBMITTING TO BPA.

EXHIBIT A

AGREEMENT _____

CUSTOMER PORTAL ADMINISTRATOR(S), USER(S) AND AUTHORIZED THIRD
PARTY USER(S)

CP User Information: _____ Add _____ Remove _____ Existing				
Name: _____				
Title: _____				
Email: _____				
Address: _____				

Phone: _____				
Select One Only		Expanded CP User Permissions (added to Standard only)		
Standard	EE Only	Submit EE Invoice(s)	View Fiber/Wireless Contract(s)	Submit Load Forecast(s)

CP User Information: _____ Add _____ Remove _____ Existing				
Name: _____				
Title: _____				
Email: _____				
Address: _____				

Phone: _____				
Select One Only		Expanded CP User Permissions (added to Standard only)		
Standard	EE Only	Submit EE Invoice(s)	View Fiber/Wireless Contract(s)	Submit Load Forecast(s)

NOTE: ALL INFORMATION FOR SECTION 1 AND AT LEAST ONE USER IN SECTION 3
(INCLUDING PERMISSIONS) MUST BE COMPLETED BY THE CUSTOMER BEFORE
SUBMITTING TO BPA.