



## McCleary City Council Agenda

**June 28th, 2017 6:30 PM- Council Workshop 5:00 PM**

**Flag Salute**

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

**Mayor Comments**

**Public Comment**

**Executive Session**

**Minutes**

**Tab A**

Introduction **X** Action **X**

**Approval of Vouchers**

Introduction **X** Action **X**

**Staff Reports**

**Tab B** Dan Glenn

**Tab C** Todd Baun

**Tab D** Staff Reports

**Old Business**

**Tab E** Fire Levy Proposal

**Tab F** Hearing Examiner Report

**Tab G** Nuisance Update

**New Business**

**Tab H** Comprehensive Plan Update

**Tab I** Eddie Biers Park conversion

**Ordinances**

**Tab J** Nuisance Update

**Resolutions**

**Mayor/Council Comments**

**Public Comments**

**Executive Session**

**Adjournment or Recess Meeting**

**Previously Tabled Items**

CAO Update, Dev. Incentives, Nuisance Update

**Please turn off Cell Phones- Thank you**

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

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

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

**TAB - A**

**CITY OF MCCLEARY**  
**Regular City Council Meeting**  
**Wednesday, June 28, 2017**

ROLL CALL AND FLAG SALUTE	Councilmembers Orffer, Richey, Peterson, Ator and Blankenship were in attendance.
ABSENT	Mayor Schiller was running late and Mayor Pro Tem Orffer chaired the meeting. Mayor Schiller arrived at 7:04 PM and chose to sit in the audience.
STAFF PRESENT	Present at the meeting were Todd Baun, Wendy Collins, Chief Steve Blumer, Leighton Cox and Dan Glenn.
PUBLIC HEARING	The Public Hearing opened at 6:32 PM on the 6-Year Transportation Improvement Plan. There were no comments or questions. The Public Hearing closed at 6:32 PM.
EXECUTIVE SESSION	None.
MINUTES APPROVED	<b>It was moved by Councilmember Ator, seconded by Councilmember Richey to approve the minutes from the meeting on June 14, 2017. Motion Carried 4-0.</b>
VOUCHERS	Accounts Payable checks approved were 42829 - 42911 and 42858 including EFT's in the amount of \$147,281.81.  <b>It was moved by Councilmember Ator, seconded by Councilmember Richey to approve the vouchers. Motion Carried 4-0.</b>
MAYOR'S COMMENTS	None.
PUBLIC COMMENT	None.
CITY ATTORNEY REPORT	Dan Glenn received an email from the Assistant Attorney General stating they were brought into the lawsuit by BHO. They will be watching how the mental health clinic progresses with the potential zoning changes.
POLICE CHIEF REPORT	Chief Blumer introduced McCleary's new police officer, Leighton Cox. The Council welcomed Officer Cox. Chief Blumer was appreciative of Officer's Cox and Bunch for saving a life last Sunday night. They responded to a medical call and the man was not breathing so they traded off performing CPR and brought the man back to life.
DIRECTOR OF PUBLIC WORKS REPORT	Todd Baun provided a written report for the Council.
FIRE LEVY PROPOSAL	Councilmember Ator asked Dan Glenn to put the fire levy information in easy to understand terms. Todd Baun spoke to someone at MRSC and is putting together a memo with different options. In 2018, the majority of the fire equipment expires. Mayor Pro Tem Orffer added that the Council asked the Mayor to explore the option of using some of the money available in the REED fund to offset the levy amount. She also suggested an interfund loan may be another option. The Council would like to set up a workshop to discuss the options.
HEARING EXAMINER REPORT	A workshop will be scheduled for the Council and Mayor to discuss.
BEAR FESTIVAL CONTRACT	<b>It was moved by Councilmember Ator, seconded by Councilmember Richey to authorize the Mayor to sign the annual Agreement between the City of McCleary and the Bear Festival. Motion Carried 4-0.</b>

ORDINANCE 831 - ELECTRICAL  
"SUBSIDIARY" CONNECTION

Staff has been working on a solution to address safety concerns for residences that are using neighboring property for electrical power. This creates a danger from overheating of the extension cords or outlets that are used and can create a hazardous situation for the Light & Power crew if they have to work on the meter or power lines in that area. There are two blanks under section C of the proposed ordinance that need to be filled in. The Council agreed to use 24-hours for the termination of service and use \$250.00 for the assessed fee amount. **It was moved by Councilmember Ator, seconded by Councilmember's Richey and Peterson to adopt Ordinance 831 RELATING TO THE PROVISION OF UTILITY SERVICE, ADDING A NEW SECTION TO CHAPTER 13.16, SETTING CONDITIONS AND PENALTIES, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE and add in the blanks "24-hours" and "\$250.00". Roll Call taken in the affirmative. Ordinance Adopted 4-0.**

3RD STREET PROJECT  
PROSPECTUS

The City received additional funding for the 3rd Street Project, which requires the City to update the project prospectus, which was provided for the Council's review. **It was moved by Councilmember Ator, seconded by Councilmember Peterson to authorize the Mayor to sign the Local Agency Federal Aid Project Prospectus for the 3rd Street Project. Motion Carried 4-0.**

RESOLUTION 705 - 6-YEAR  
TRANSPORTATION  
IMPROVEMENT PROGRAM  
(STIP)

The required Public Hearing was held at the start of the meeting regarding the 6-Year STIP. **It was moved by Councilmember Ator, seconded by Councilmember Peterson to adopt Resolution 705 ADOPTING A SIX-YEAR STREET PLAN FOR THE CITY OF MCCLEARY. Resolution Adopted 4-0.**

RESOLUTION 706 - FINANCIAL  
POLICIES

The Financial Policies were approved at the last Council Meeting. To remain consistent with the previously approved policies, Dan Glenn has prepared a resolution formalizing the Financial Policies. **It was moved by Councilmember Ator, seconded by Councilmember Richey to adopt Resolution 706 IN RELATION TO FINANCIAL POLICIES. Resolution Adopted 4-0.**

PUBLIC COMMENT

Gary Atkins asked when the public will know more about the hearing examiners decision. Mayor Pro Tem Orffer responded by stating the Council just recently received a copy of the decision. They are reviewing it and at this point, no decisions are made. They will be discussing it at a workshop that will be scheduled in the near future and will try to arrange for the hearing examiner to attend so he can address any questions from the Mayor and Council. The Council prefers a workshop to discuss both the fire levy options and hearing examiner decision.

MEETING ADJOURNED

**It was moved by Councilmember Ator, seconded by Councilmember Richey to adjourn the meeting at 7:10 pm. The next meeting will be Wednesday, July 12, 2017 at 6:30 pm. Motion Carried 4-0.**

**TAB - B**

## MEMORANDUM

TO: MAYOR AND CITY COUNCIL, City of McCleary

FROM: DANIEL O. GLENN, City Attorney

DATE: July 6, 2017

RE: LEGAL ACTIVITIES as of JULY 12, 2017

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. **ZONING MATTER**: The City received Mr. Aaland's Report, including recommendations, just prior to your last meeting. Prior to this meeting, a work session has been held so as to most effectively understand the process through which Mr. Aaland worked in developing his report and recommendations. At this stage, the process must now move forward in terms of consideration by the six of you as to what provisions you wish to add to the Municipal Code as to the zoning for the residential treatment facility, as well as the conditional use aspect for hospitals, as that term was amended through the prior ordinance.

Section 17.40.140, the applicable provision of the Municipal Code, the text of which I have set out below, sets out the following protocol

1. Upon receipt of the Hearing Examiner's Report, Ms. Collins is to provide copies to each of you.

2. At this meeting, you decide whether you wish [a] to have another public hearing on the matter or [b] to move forward with consideration of action utilizing the Examiner's

Report as the basis. (If you choose the second option at this meeting, the Code still allows you to change your mind at the next meeting and set for a public hearing.)

3. Unless you feel you need to obtain further information through referral back to the Hearing Examiner, you would move forward with action. If affirmative action is taken, that would be done through adoption of an ordinance. That must be done within 60 days of the Council Meeting at which you considered the matter.

Given all that is "swirling" around this matter, in my opinion it is imperative that consideration be of the general concepts and not focused upon BHO's potential utilization.

2. **NUISANCE ORDINANCE DRAFT**: Friday, June 30, the Mayor, Council Member Blankenship, Director Baun, Chief Blumer, Mr. Morrison and I met for a couple hours undertaking a review of the "H" draft of this ordinance. As a result of those discussion, I have prepared the "I" draft which is being provided to you for your review. As I mentioned at that meeting, I continue to have concerns about the scope of certain provisions in terms of their effect upon the City's task of enforcement. The concerns are primarily focused upon the elements contained in what is now Section 11, which relates to structures and associated factors.

In any event, as usual, if you have suggestions or questions, please contact me.

3. **BHO LITIGATION**: As you are aware from the letter we received from the Assistant Attorney General, future action in this litigation may involve the State as well. Her letter set forth the issues which they will be reviewing as to any future action.

Mr. Myers and I have been working on developing the necessary pleadings.

4. **CRITICAL AREAS ORDINANCE**: As I believe I have mentioned in prior reports, this process started back in 2014. An initial update was prepared and submitted to the DOE. Mr. Mraz, the DOE official dealing with the draft, responded with

suggestions in a letter to Mr. Mercer, the staff member who was the contact person. Apparently this was about the time he left his position with the City and nothing was done. Further contact occurred with Mr. Morrison from Mr. Mraz as to the status.

Since that time, working in conjunction with Mr. Mraz, a draft updated ordinance has been completed. I have provided the draft to Paul for his review and comment. When that phase has been completed, we will send it to Mr. Mraz for his comment and suggestions. When those two phases are completed, it will come to you for the same reasons plus, of course, enactment.

#### **APPLICABLE TEXT OF SECTION 17.40.140**

"...Upon receipt of the commission's recommendation, the clerk-treasurer shall place the recommendation upon the agenda for the next regular meeting of the city council for commencement of consideration as set forth in subsection D of this section.

D. Upon receipt of the commission's recommendation on the matter heard by the commission, the city council shall at the next regular meeting of the council either set a time and place of public hearing thereon and order public notice as herein provided, or, if determines that no additional public hearing is necessary, set the matter on for consideration at its next regular council session. If at the time set for consideration without public hearing, the majority of the council determines it appropriate to schedule a public hearing, such hearing may be scheduled and held as provided for herein. So long as the council determines it has adequate information from the applicant and/or planning commission to make a decision, the council shall take final action within sixty days after the later of (1) any public hearing held by it or (2) the date of the consideration without public hearing. The council may issue its decision by passing an amendatory ordinance, by declining to amend, or by referring the matter back to the planning commission for further consideration. To the extent required by law, the council shall issue written findings of fact and conclusions of law in



relation to the decision it makes. Written notice of the action take by the city council shall be transmitted by the clerk-treasurer to the planning commission and/or to the applicant, if the matter was initiated by the filing of an application: provided that, for purposes of an appeal, the date of issuance of the council's decision shall be determined as provided in RCW 36.70C.040(4), as now existing or hereafter amended or succeeded.

E. The city council's decision shall be final unless an appeal is timely filed and perfected within ten days of the issuance of the notice of the decision provided for under subsection D or, if applicable, within the time period set forth under the provisions of RCW 36.70C, as now existing or hereafter amended or succeeded."

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

DG/le

**TAB - C**

## **STAFF REPORT**

To: Mayor Schiller  
From: Todd Baun, Director of Public Works  
Date: July 7, 2017  
Re: Current Non-Agenda Activity

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### **Fire Hall Expansion**

The Fire Hall expansion is completed on the exterior. We will be turning the interior over to the volunteer firemen to complete the interior.

### **Bear Festival**

All the crews and personal have been working extremely hard to get the city prepared for the Bear Festival. The Bear Festival takes a lot of time from our crews, but they do a great job and make the City shine for the Bear Festival weekend.

**TAB - D**

# Building and Planning Staff Report

To: Mayor and City Council

From: Paul Morrison

Date: July 1st, 2017

Re: June, Building and Planning Department Activity.

## New Permit Activities for June 2017

1545 North 5 <sup>th</sup> Street	New SFR	Total Fee \$ 10,835.84
1539 North 5 <sup>th</sup> Street	New SFR	Total Fee \$ 9,978.39
1542 North 5 <sup>th</sup> Street	New SFR	Total Fee \$ 11,154.69
508 South 2 <sup>nd</sup> Street	New Roof Sheathing	Total Fee \$ 84.50
1400 North Summit Road	Driveway	Total Fee \$ 95.00
710 West Ash Street	Cascade Natural Gas	Total Fee \$ 95.00
700 Evergreen Place	Ductless Heat Pump	Total Fee \$ 87.70
221 South 5 <sup>th</sup> Street	Ductless Heat Pump	Total Fee \$ 87.70
<b>Building Department Related Revenues</b>	Total fees charged for June \$ 32,418.82	Total fees collected for June \$ 22,939.35

## Permit Activity Totals

New Homes Permitted for 2017 6	All Permits Issued for 2017 53	Total Fees Charged for 2017 \$ 64,510.49
New Homes Permitted for 2016 24	All Permits Issued for 2016 170	Total Fees Charged for 2016 \$ 249,258.60
New Homes Permitted for 2015 2	All Permits Issued for 2015 52	Total Fees Charged for 2015 \$ 52,499.28
New Homes Permitted for 2014 3	All Permits Issued for 2014 89	Total Fees Charged for 2014 \$ 59,695.93
New Homes Permitted for 2013 3	All Permits Issued for 2013 79	Total Fees Charged for 2013 \$ 69,743.57
New Homes Permitted for 2012 6	All Permits Issued for 2012 97	Total Fees Charged for 2012 \$ 123,164.28
New Homes Permitted for 2011 1	All Permits Issued for 2011 37	Total Fees Charged for 2011 \$ 24,803.65

# **Building and Planning Staff Report**

## **Nuisances for the Month of June**

708 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

712 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

716 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

718 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

724 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

618 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

615 Evergreen Place

- (8.16.20, sub-paragraph 4, 13)

208 East Hemlock Street

- (8.16.20, sub-paragraph 4, 13)

212 East Hemlock Street

- (8.16.20, sub-paragraph 4, 13)

216 East Hemlock Street

- (8.16.20, sub-paragraph 4, 13)

220 East Hemlock Street

- (8.16.20, sub-paragraph 4, 13)

217 East Hemlock Street

- (8.16.20, sub-paragraph 4, 13)

222 Cotton Wood Court

- (8.16.20, sub-paragraph 4, 13)

218 Cotton Wood Court

- (8.16.20, sub-paragraph 4, 13)

214 Cotton Wood Court

- (8.16.20, sub-paragraph 4, 13)

210 Cotton Wood Court

- (8.16.20, sub-paragraph 4, 13)

206 Cotton Wood Court

- (8.16.20, sub-paragraph 4, 13)

706 South 2<sup>nd</sup> Street

- (8.16.20, sub-paragraph 4, 13)

714 South 2<sup>nd</sup> Street

- (8.16.20, sub-paragraph 4, 13)

## **There were no Citation's issued for the Month of June**

## **Resolved Municipal Code Violations for the Month of June**

466 East Mommsen Road

111 East Mommsen Road

1107 West Simpson Ave.

There are several properties that have contacted me and I am currently working with them to comply.  
There are several that have yet to contact me or comply.

## **STAFF REPORT**

Date: July 5, 2017

To: Todd Baun, Director of Public Works

From: Kevin Trehella, Water & Wastewater Manager

Subject: WWTP

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Congratulations!

The City of McCleary Wastewater Treatment Plant, receiving the 2016, "Wastewater Treatment Plant Outstanding Performance" award.

As you may recall, in 2013, due to different interpretations of the regulation in regards to the handling of Bio-solids Fire Mountain Farms was no longer able to accept our Bio-solids.

This change caused problems not only for the City of McCleary, but for almost every small city in western Washington.

We eventually found a company that would haul our Bio-solids to Central Washington for land application. There were a series of Lab test that we had to pass before the DOE would allow our solids to be land applied. The lab testing was to see if we were able to produce a Class "B" solids. In 2016 we failed 3 times. In an attempt to pass these tests we have made changes in the process and hold times. Still the results were not enough to pass. To pass, we must have less than 2,000,000 fecal coliforms per gram. Our test were showing that we had greater than 4,000,000 fecal coliforms per gram.

Carl Jones at Department of Ecology worked with us to come up with a temporary solution to our problem. It worked! Our Fecal Coliform counts are way below the legal limit. The DOE has stated that we may resume sending solids for land application. In 2016 we spent \$13,132.88 for hauling and disposal of the City's thickened Bio-solids. With this change, we project that in 2017 we will probably spend less than we did in for hauling and disposal than in 2016. Even though we have a temporary solution and are saving money now we cannot continue to use this method we need to have a long term solution so that we will have treatment capability for long term growth of the city



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 30, 2017

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

Dear Mayor Schiller:

Congratulations! The City of McCleary Wastewater Treatment Plant is receiving the 2016 "Wastewater Treatment Plant Outstanding Performance" award. Of approximately 300 wastewater treatment plants statewide, yours is one of 108 that achieved full compliance with its National Pollutant Discharge Elimination System (NPDES) permit in 2016.

My staff evaluated wastewater treatment plants in Washington for compliance with the effluent limits, monitoring and reporting requirements, spill prevention planning, pretreatment, and overall operational demands of the NPDES permit.

It takes diligent operators and a strong management team, working effectively together, to achieve this high level of compliance. It is not easy to operate a wastewater treatment plant 24 hours a day, 365 days a year, without violations. Ecology appreciates the extraordinary level of effort your plant operators demonstrated throughout 2016. Talented and proficient operators are critical to successful plant operations and protecting the health of Washington's waters. Your excellent record is a credit to the dedicated operators who are responsible for running the award-winning City of McCleary Wastewater Treatment Plant.

We will announce the 2016 award recipients, including the City of McCleary Wastewater Treatment Plant, in a news release in the coming weeks.

Please call Pat Bailey at 360-407-6281 if you have any questions or comments about your award.

Thank you for the excellent service your operators provide to your community and the waters of Washington.

Sincerely,

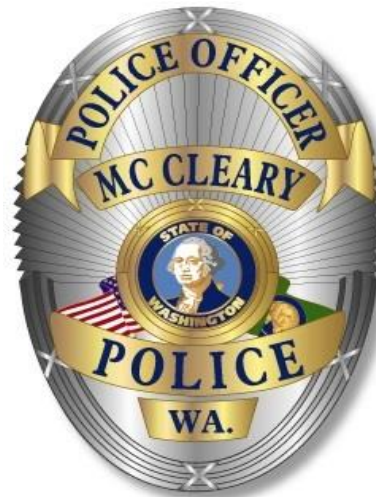
Heather R. Bartlett  
Water Quality Program Manager





City Of McCleary Police Report: Chief Steve Blumer  
 Reporting Officer: Chief Blumer  
 Month Of June  
 2017  
 City Mayor: Brent Schiller

City Council Members:  
 Position 1: Brenda Orffer  
 Position 2: Dustin Richey  
 Position 3: Larry Peterson  
 Position 4: Ben Blankenship  
 Position 5: Pam Ator



### Violent & Property Crimes

Murder	
Rape	
Aggravated Assault	
Robbery	
Harassment / Domestic	9
Theft	4
Trespass	3
Stalking	
Found Property	
Warrant Arrest	4
Burglary	2

<b>TOTAL</b>	<b>22</b>
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### Other Emergent Calls

FIRE	24
Suicide	1
Missing Person	2
Disorderly Conduct	
Drug Incidents	1
Man Down	
911	5
Alarm	2

TOTAL	33
<b>Total Calls For The Month</b>	<b>254</b>

### Traffic Stops and Violations

DUI	3
Accident	2
Stolen Vehicle	1
Abandon Vehicle	3
Parking Enforcement	
Motorist Assist	
Fatal Accident	
Subject Stop	
Traffic Stop	92
Hazard	2

### Other Non Emergent Calls

Noises Complaints	4
Code Enforcement	6
Agency Assist	14
Police Referral	
Citizen Assist	3
Suspicious	14
Juvenile	5
Welfare Check	4
Other	34
Court Order	12
	96

<b>Calls In City Limits</b>	<b>242</b>
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### Overtime Hours

**TAB - E**

## **STAFF REPORT**

To: Mayor Schiller  
From: Todd Baun, Director of Public Works  
Date: July 7, 2017  
Re: Fire Levy Proposal

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Dan and I both have been trying to get in touch with Paula Bednarik, the Chief Deputy Assessor from Grays Harbor County, but just haven't been able to connect. I anticipate that we will be contact with her prior to the Council meeting and will have options available to you at the meeting.

**TAB - F**

City of McCleary Hearing Examiner  
Report and Recommendation

Summary of Request: Recommend to the McCleary City Council Amendments to the McCleary Municipal Code (MMC) Governing Zoning for Residential Treatment Facilities and Hospitals.

Requested by: City of McCleary  
100 South 3<sup>rd</sup> Street  
McCleary, WA 98557

SUMMARY OF RECOMMENDATION: Amend the table of land uses in several ways for Residential Treatment Facilities; add criteria for hospitals in residential zones

SUMMARY OF RECORD:

***Public Hearing:***

A public hearing was opened at 6:00 p.m. on May 16, 2017 at the VFW Hall in McCleary, Washington. Present for the city were Neil Aaland, Hearing Examiner and Todd Baun, Public Works Director. The Examiner briefly summarized the proposal for the record, including the purpose of the hearing and how the hearing process works. He asked that people focus their comments on the question of how the zoning ordinance should be amended, rather than on a specific proposal. The Examiner is only providing a recommendation to the City Council on amending the zoning ordinance.

Todd Baun summarized the staff report prepared for the hearing. No letters were received in advance from the public.

The questions posed to the Hearing Examiner by the city council are:

- How should a residential treatment facility be classified under the city's zoning code; and
- Whether hospitals should be allowed as conditional uses in residential zones

***List of exhibits submitted at hearing:***

1992 AGO Opinion submitted by Maren Blankenship

Note from Ron Hulscher

Letter from Tracee Reopelle, RN

Letter from Helen Lake Hamilton

Letter from Marc Bollinger, CEO, Great Rivers BHO

Letter from Joan Brewster to Vickie Raines (submitted by Vickie Raines)

Binder submitted by Marc Bollinger

A set of numbered documents, numbered 1, 2, 2(a), 5, 6, and 8 (unclear who submitted):

1 Joint Statement of the Department of Justice and the Department of Housing and Urban Development

2 McCleary Zoning Code Section 17.36 – Nonconforming Uses, Lots and Structures

- 2(a) Grays Harbor County Assessor's Office Online Parcel Database, Assessment Information for Parcel 618051233002
- 5 McCleary Zoning Code Section 17.28.010 – Architectural features, stairways, and fences
- 6 Revised Code of Washington (RCW) Section 70.128.140 – Compliance with local codes and state and local fire safety regulations
- 8 Telecare, Grays Harbor – Feasibility Report dated May 16, 2016

***Exhibits submitted by City:***

Staff report from Todd Baun  
Joint Statement of the Department of Justice and the Department of Housing and Urban Development: Group Homes, Local Land Use, and the Fair housing Act (August 18, 1999)  
Regulating Group Homes in the Twenty First Century: The Limits of Municipal Authority (April 2013)  
Federal Fair Housing Act (Response to Request for Information, Municipal Research and Services Center, March 2017)  
Alcoholism, Drug Addiction, and the Right to Fair Housing: How the Fair Housing Act Applies to Sober Group Homes (Spring 2010)  
Group Homes (MRSC, 2016)

***Testimony:***

The following persons provided testimony:

Jim Hargrove	Linda Reese
Maren Blankenship	Marc Bollinger
Stephen Bean	Gary Atkins
Doug Smythe	Gloria Hale
Alice Ortquist	Dan Holcomb
Fred Ortquist	Otis Leathers
Robin Nunez	Bea
Josh Martin	Jean Orton-Elders
Tammy Moore	Ron Hulscher
Larry Kahl	Jerry Olson
Vickie Raines	Stephen Bean
Drew McDaniel	Carol Murphy

Jim Hargrove: He is a retired state senator and not a citizen of McCleary, but worked on these issues for many years. Mental health facilities should be in every community. The hospital closed in 2012 which impacted the economy. A new facility would bring 38 jobs. It would be secure.

Maren Blankenship: Her fiancé was admitted to a facility and it did damage to him. It was in Everett. She referenced the requirement to provide facilities. She cited state and federal requirements, and noted that the McCleary Police Department is not a full-time

police force; a facility would create a fundamental change in an R-1 zone. Reasonable accommodations depend on local circumstances. She asked the examiner to review the attorney general's opinion and provided a copy.

Stephen Bean: He is representing some citizens in McCleary. It's not a question of whether it should be in McCleary but a question of where it can be legally located. Hospital is a non-confirming use. It's been closed longer than four years, so the non-confirming use goes away. Don't put this in a residential neighborhood. Codes don't provide for this in the R-1 zone. Must consider neighborhood safety; not the right place. McCleary's comprehensive plan does not identify sites for this type of uses. It would also violate the state Growth Management Act as well as McCleary's comprehensive plan.

Doug Smythe: He is a retired detective. He is concerned about the cost of police protection, and thinks this is not needed in a residential area. He does think it is needed somewhere, but not in a residential area. Police is not covered on a 24-hour basis. Would need to hire another officer for 24-hour protection. Other issue is property values; Grays Harbor County has some of the lowest property values in the state, and this will make them even lower.

Alice Ortquist: Agrees with Doug Smythe.

Fred Ortquist: He wonders who is responsible for streets in the hospital area. There is a major problem with drainage, which has been going on for 50 years.

Robin Nunez: Her points have already been covered.

Josh Martin: He is the acting CEO for Summit Medical Center. There are challenges and opportunities. We have 50% less mental health professionals than comparable communities. There is a lack of providers and facilities. Over 130 patients have been seen by Summit Medical Center's emergency room since January 1, 2017 with mental health issues. Since such a treatment facility is not in the county, it makes it hard to manage and address these people. He supports the project. On his personal perspective, his brother was diagnosed with schizophrenia. He can hold a job, drive a car. About once per year he needs to go through a period of stabilization. He is not a drug addict nor a drug seeker, but uses this resource. Without it he would be on the street.

Tammy Moore: She provides care in the community, and has for nearly a decade. She thinks we need to provide for their care. They deserve care. She doesn't know a lot about zoning. Previously, when the hospital was open, they provided some treatment within this community. Now they continue to provide some care in Elma. It seems like people are saying "not in my neighborhood". If not here, where? These patients are in our family.

Larry Kahl: He is the Chief Operating Officer for Grays Harbor Hospital. He noted that GH Hospital is in a residential area. That is not unusual in other communities to have facilities in the neighborhoods. Aberdeen zoned them light residential, and that has worked. Regarding the mental health role, there is a tremendous need. 30 patients per

month come in with mental health issues. He agrees that McCleary has a unique opportunity.

Vickie Raines: She submitted a statement from the former Public Health Director for Grays Harbor County, who recently retired. She is a Grays Harbor County Commissioner and on the board for Great Rivers Behavioral Health. She shared a statement from Grays Harbor Sheriff Rick Scott, who supports the facility in McCleary. She supports this facility, and thinks a recent zoning change was done to discourage the facility. She agrees with Kathy, and when talking about “drug addicts” and “those people” we’re talking about our family and co-workers. Treatment is needed close to home. The sheriff provides back-up police services to the McCleary Police Department.

Drew McDaniel: He is a regional director for crisis services. Sentiments in the room are not surprising to hear. He told a story about categorizing someone who has schizophrenia. Grays Harbor County has 2% of the state’s population, and 40% of the “unable to detain” population. They were released to the streets because not enough beds exist.

Linda Reese: She is with Telecare. They have operated four other residential treatment facilities for seven years. She’s heard concerns about local law enforcement. In 3 of the 4 facilities they have never called law enforcements; in the other 2 incidents in 4 years. They don’t anticipate an impact on law enforcement. Instead, they can be viewed as a resource. One of their facilities is across the street from a high school; they’ve had no incidents. There is no greater rate of criminal behavior. The primary reason they are in these facilities is they are a danger to themselves. People do not self-refer to these facilities.

Marc Bollinger: He is the CEO for Great Rivers. He said the Mark Reed facility was operating one year ago, not four years ago. This is not unreasonable to have in a residential neighborhood. The hospital should be allowed as a conditional use. People did not have a problem when it was just a hospital. He provided a binder with related information to the Examiner.

Gary Atkins: He is a manic/bi-polar person. There’s a difference between mentally ill and mentally ill drug addicts. Combining them with drug addicts is not good. They know how to play the game. McCleary has only 1600 people. It’s going to be a sore thumb. The city is just starting to come back after some difficult years. The community deserves more.

Gloria Hale: We know this is needed. It doesn’t need to be at the Mark Reed hospital. Most people in McCleary will not be hired at the hospital. There are other places besides a residential place in McCleary.

Dan Holcomb: Even a hospital would not fit into a residential area. The zoning should not be changed.



Otis Leathers: He is bi-polar. He has lived here since 1997. He's trained to support people in reaching recovery. He was lucky enough to have insurance. They should be able to continue treating people. He's willing to support the hospital and people.

Bea: One of her family members has mental health problems. Doesn't think it is a good location. City only allows 8-foot-tall fences, not 10 feet; there is not enough funding for more police. Sheriff takes a while to get here. Also, there is not enough parking.

Jean Orton-Elders: She is a lifelong Grays Harbor resident. She moved back to McCleary, it is a small peaceful community. The hospital will have an impact on vehicle traffic. Parking was previously an issue, it will be again. She gets both points of view, had a brother who was bi-polar. We do need a mental health facility. She is a social worker. The neighborhood is not the right place. The hospital was closed because the building was not good enough, but now it will be okay? A better facility is needed.

Ron Hulscher: He is a hospital district employee. He's studied the history of Mark Reed Hospital. It originated in the 1940s; it's relatively remote even now. A wooded corridor is between the hospital and residences on Morrison, three sides of the building are relatively isolated. It's now zoned residential.

Jerry Olson: He has two points: First, he wonders how this facility can grow if it will provide treatment over the years. Second, he thinks we'll see much more growth in McCleary due to lower cost of housing. He wonders what impact this facility would have on McCleary.

Stephen Bean: Non-conforming uses are to be the exception, not the rule. It's a question of where. There must be somewhere to site them legally.

Carol Murphy: Has lived here for 40 years. She doesn't see how this will work security-wise. If people are homeless, they don't have family help. It's a long process. Also, it's the wrong kind of facility for the community. We need a state hospital. People should lobby in Olympia.

Hearing was closed at 7:30 pm.

The written comments of city staff, together with the staff report and other supporting materials, are incorporated into the record of the hearing.

#### FINDINGS:

1. MCC Chapter 2.30 establishes the office of the Hearing Examiner and assigns certain responsibilities to the Examiner.
2. MCC Chapter 17.40.130 and ordinance #790 establishes the responsibility and authority of the Hearing Examiner to hear and make recommendations on matters assigned to him by the Mayor and the City Council.

3. The Mayor and the City Council have assigned to the Examiner the responsibility of conducting the required public hearing and making a recommendation to the City Council for a proposal to revise the MMC.
4. City staff have provided an affidavit of publication advertising the public hearing in the paper of record, the Montesano Vidette, for three consecutive weeks between April 27<sup>th</sup>, 207 and ending on May 11<sup>th</sup>, 2017.
6. Section 17.40.140 of the MCC stipulates the procedure for amending the zoning ordinance. Section A states:

*“The City Council may amend the text of the zoning ordinance, including the city of McCleary zoning map, whenever public necessity, convenience, or general welfare require such action and the proposed amendment is consistent with the city of McCleary comprehensive land use plan in accordance with RCW 35.A.63.105.*

5. The Hearing Examiner conducted a public hearing for the proposal on May 16, 2017.
6. People attending the public hearing testified about their concerns. The testimony was mixed, with some expressing concern about the potential location of a facility at the old Mark Reed Hospital site, some stating the need for a facility providing treatment services, and some expressing other concerns.
7. The city staff report includes a description of the purposes of each zone in the city.
7. The 2002 McCleary Comprehensive Plan, on page 10, includes the following paragraph for the R-1 District regarding appropriate conditional uses:

“Examples of other compatible uses eligible for conditional uses in the R-1 District may include: bed and breakfast inns, home businesses, parks, schools, churches, and other public and semipublic uses as long as such uses will not create a significant traffic or parking problem, noise or light pollution, and water and sewer facilities are capable of supporting such development.

Similar language is found on the same page for the R-2 and R-3 Districts.

8. The Comprehensive Plan does not include a definition of public and semi-public uses.
9. The State Environmental Policy Act (SEPA) requires a threshold determination to be made for revisions to the comprehensive plan and the UDC. A Determination of Non-Significance (DNS) was issued on April 27, 2017. As allowed under WAC 197-11-340 (2), no comment period was provided. No appeal of the SEPA determination was filed.

10. "Adult family home" is defined in the McCleary Municipal Code, section 17.12 "A" definitions" as "...the regular family dwelling unit of a person or persons who provide personal care, room, and board to no more than four adults not related by blood or marriage to the person or persons providing the services. An adult family home may have a maximum of six adults if licensed pursuant to Chapter 70.128 RCW by the Washington State Department of Social and Health Services."
11. "Residential Treatment Facilities" are defined in the McCleary Municipal Code, as included in Ordinance 830:

'Residential Treatment Facility' means any facility to which the definition contained within WAC 246-337-005, as now existing or hereafter amended or succeeded, is applicable and is required by state law to have a license issued by the State to operate as such a facility."
12. WAC 246-337-005 defines a Residential Treatment Facility: "Residential treatment facility" or "RTF" means a facility for purposes of evaluation and treatment or evaluation and referral of any individual with a chemical dependency or mental disorder."
13. Residential Treatment Facilities are a type of Group Home. Group homes have been the subject of federal law and state law. This recommendation does not attempt to summarize all the applicable laws and court cases. However, there are several key points. Mr. Ted Gathe summarized some of these relevant laws and cases in his April 2013 article (see list of exhibits for citation). Key points from his article include:
  - a. The primary federal law is the Federal Housing Act Amendment (a 1988 amendment of the Federal Housing Act). This law extended the protection of the 1968 Federal Housing Act to persons with disabilities and prohibits discriminating against the disabled in zoning. The FHAA states, in part, that "The Act is intended to prohibit the application of special requirements through land use regulations, restrictive covenants, and conditional or special use permits that have effect of limiting the ability of such individuals to live in the residence of their choice in the community."<sup>1</sup>
  - b. The key state law is the Washington Housing Protection Act (WHPA). Adopted by the state Legislature, in 1993, this was in direct response to the Federal Housing Act Amendment. In a discussion of hypotheticals, Mr. Gathe states: "A City violates the WHPA if it grants a variance or accommodation and then subsequently denies a similar request to a similar group of individuals, such as permitting a "family" to obtain immediate occupancy of a residential structure but requiring 'group care facilities' to obtain a SUP [special use permit] before occupying a similar residential structure."

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<sup>1</sup> H. Rep. No. 100-711, at 24 (1998), reprinted in 1988 U.S.C.C.A.N. 2173, 2185.

- c. Mr. Gathe concludes: “A city may defend its zoning laws so long as they attempt to reasonably protect the aesthetic quality of single-family neighborhoods, address legitimate health and safety concerns, are in the best interest of the Acts’ protected classes, and do not implicate the FHAA’s “reasonable accommodation requirement. Because courts will review each circumstance on a case-by-case basis in this highly fact-specific inquiry, a city must be prepared to have strong support and documentation to justify their zoning and land use decisions.”
14. The U.S. Department of Justice and the U.S. Department of Housing and Urban Development issued a joint statement in 1999 titled “Joint Statement of the Department of Justice and the Department of Housing and Urban Development: Group Homes, Local Land Use, and the Fair Housing Act” (see list of exhibits for citation). A question and answer page attached to this included this statement: “The Fair Housing Act prohibits discrimination on the basis of handicap...this may include conditions such as alcoholism, drug addiction...”
15. The Municipal Research Services Center (MRSC) in Seattle, in a March 2017 response (see list of exhibits) to an inquiry, stated the following in response to this question: “Is there a threshold size over which a group home over which a city may regulate such a facility differently than single-family residences and even prohibit them?”

The response: “Yes, although there is no clear line as to what that threshold is, and it may depend upon the particular circumstances at issue. Obviously, a group home with 100 residents, which would effectively be an institutional use, need not be allowed in a single-family zone. But what about a home with 12 or 15 residents? It apparently depends on the circumstances.”

16. The Examiner researched how other nearby jurisdictions address these facilities.
  - a. The City of Olympia allows group homes with 6 or fewer residents as permitted uses in any residential zone. Group homes of 7 or more residents are allowed as conditional uses in every zone except two residential zones: R 4, R4 CB. These latter two zones have limitations due to stormwater issues.<sup>2 3</sup> There are no special criteria for consideration of these as conditional uses other than those for any conditional use.<sup>4</sup>
  - b. The City of Yelm defines “Residential Care Facilities” as “...a facility, licensed by the state, that cares for at least five but not more than 15 people...”<sup>5</sup> These facilities are permitted uses in the R-4 (Low Density Residential District), R-6 (Moderate Density Residential District), and R-16 (High Density Residential

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<sup>2</sup> Olympia Municipal Code, Section 18.04.040, Table 4-1; and

<sup>3</sup> Olympia Municipal Code, Section 18.04.020(B)(3)

<sup>4</sup> Olympia Municipal Code, Chapter 18.48

<sup>5</sup> Yelm Municipal Code, Section 18.02.040

District).<sup>6</sup> It does not appear that these facilities are allowed in the city's commercial districts.

- c. The Examiner also reviewed zoning requirements for Aberdeen, Hoquiam, and Shelton but found no relevant requirements in those codes.

17. The second question posed to the Examiner is whether hospitals should be allowed as conditional uses in residential zones. Hospitals are defined in the McCleary Municipal Code: "Hospital means any institution, place, building, or agency which qualifies as fitting within the definition of hospital as set forth in RCW 70.41.020(7), as now existing or hereafter amended."<sup>7</sup>

18. The Examiner researched how nearby jurisdictions address this.

- a. The city of Elma provides that hospitals and medical clinics are not permitted in the Rural Residential zone and allowed as a conditional use in the General Residential zone.
- b. The city of Yelm provides that hospitals are not permitted in residential zones.<sup>8</sup>
- c. The city of Hoquiam allows hospitals as a permitted use in the R-2 (high density residential) zone and as a conditional use in the R-1 (low density residential) zone.<sup>9</sup>
- d. The city of Montesano provides that hospitals are allowed as conditional uses in all three of their residential zones.<sup>10</sup>
  - a. The code provides additional requirements when considering a conditional use permit for hospitals:
    - (A) "Such uses are located on a collector or arterial street,
    - (B) Structures do not exceed a height of fifty feet,
    - (C) The front, side, and rear yard setbacks shall be one foot for each one foot of building height or the minimum setbacks for this zoning district, whichever are greater..."

## CONCLUSIONS:

### General:

1. The request by the city to the Hearing Examiner is not about a specific proposal, but is about revising the city code to address potential facilities in the future.
2. There is a general lack of clarity about how to address residential treatment facilities, due to different federal and state laws and different court cases.

Question 1: How should a residential treatment facility be classified under the city's zoning code?

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<sup>6</sup> Yelm Municipal Code, Chapters 18.31, 32, and 33

<sup>7</sup> McCleary Ordinance #830, adopted April 12, 2017

<sup>8</sup> Yelm Municipal Code, Chapters 18.35, 36, 37, and 40

<sup>9</sup> Hoquiam Municipal Code, Table 10.03.106

<sup>10</sup> Montesano Municipal Code, Chapters 17.20, 22, and 24

3. The city needs to provide for siting of residential treatment facilities to comply with federal and state law, and court cases.
4. Residential treatment facilities for 6 or fewer persons should be allowed as a permitted use in zones that allow residential uses. This is consistent with federal and state law, McCleary's definition of "adult family homes", and the city of Olympia's standards.
5. Residential treatment facilities for more than 6 persons should be allowed as a conditional use in most zones that allow residential uses. The standards for reviewing conditional use applications allow various impacts to be considered and addressed.

Question 2: Should hospitals continue to be allowed as a conditional use in residential zones?

6. Most jurisdictions surveyed allow consideration of hospitals as a conditional use in residential zones. The Examiner believes it is appropriate for the city of McCleary to continue to have similar provisions.
7. The city of Montesano has some specific criteria, which would be useful for future consideration. The height requirement of 50 feet, however, should be the same as for other structures in the McCleary code, which is 35 feet.

**RECOMMENDATION:**

The City should amend the zoning code in several ways:

1. Allow residential treatment facilities for 6 or fewer persons as a permitted use in single-family homes, where such housing is allowed.
2. Allow larger residential treatment facilities as a conditional use in residential and some commercial zones where residential uses are allowed. The C-3 highway commercial district does not seem appropriate for such uses.
3. Continue to allow Hospitals as conditional uses in residential zones, and add the criteria used by the city of Montesano (except using the current McCleary height requirement).

Suggested amendments are shown in Attachment One.

**NOTICE TO APPLICANTS AND INTERESTED PARTIES:**

Under section 2.30.090 of the McCleary Municipal Code, the decision of the examiner shall be final and conclusive, as to any further action or appeal as to those matters in which the examiner's decision is in fact passed on to the mayor and council as a recommendation, on the twenty-first day after the date of the decision. Since this is a recommendation and not a final decision, there is no appeal provided.

This report is the recommendation of the Hearing Examiner to the McCleary City Council. The council may approve, reject or modify this recommendation. Interested parties should contact the Clerk-Treasurer concerning action by the City Council.

Dated this 25<sup>th</sup> day of June, 2017

Neil L. Aaland  
Neil L. Aaland, AICP  
McCleary Hearing Examiner

ATTACHMENT ONE  
Proposed revisions to McCleary Municipal Code

1. For Residential Treatment Facilities: Add the following to Section 17.20.030 Table of land uses for all zoning districts:

Land Use	R-1	R-2	R-3	C-1	C-2	C-3	I	F/OS
Residential Treatment Facilities for 6 or fewer persons	P	P	P	P <sup>2</sup>	P			
Residential Treatment Facilities for 7 or more persons	C	C	C	C	C			

2. For Hospitals: No change to the current Table of land uses is proposed. The following criteria should be added as a new section 18.40.110 (G):

“Additional criteria for hospitals:

- (1) “Such uses are located on a collector or arterial street,
- (2) Structures do not exceed a height of thirty-five feet, and
- (3) The front, side, and rear yard setbacks shall be one foot for each one foot of building height or the minimum setbacks for this zoning district, whichever are greater.”



**TAB - G**

## STAFF REPORT

To: Mayor Schiller  
From: Todd Baun- Director of Public Works  
Date: July 7, 2017  
Re: Nuisance Update

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Mayor Schiller, Councilman Blankenship, Chief Blumer, Paul, Dan and I have sat down and reviewed this draft ordinance version to update our Nuisance code. We have gone through each page and I believe we have ironed out potential concerns from the previous drafts.

**Action Requested:**

After reviewing this draft ordinance, we feel that this ordinance would be a useful tool for the City to use. Please review and discuss and let us know of any questions or concerns that you may have.

**TAB - H**

## STAFF REPORT

To: Mayor Schiller  
From: Todd Baun, Director of Public Works  
Date: July 7, 2017  
Re: Comprehensive Plan Update

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We have received 8 proposals to perform our Comprehensive plan. I would like to narrow the proposals down to 2-4 firms that I would like to have interviewed by a selection committee. The interview dates that I have planned is Wednesday, July 19<sup>th</sup> or Friday, July 21<sup>st</sup>.

Would any of the council members be available on Wednesday, July 19<sup>th</sup> or Friday, July 21<sup>st</sup> to sit on the interview committee? The times should be between 10 am to 3 pm.

**TAB - I**

**STAFF REPORT**

To: Mayor Schiller  
From: Todd Baun, Director of Public Works  
Date: July 7, 2017  
Re: Eddie Biers Park Conversion

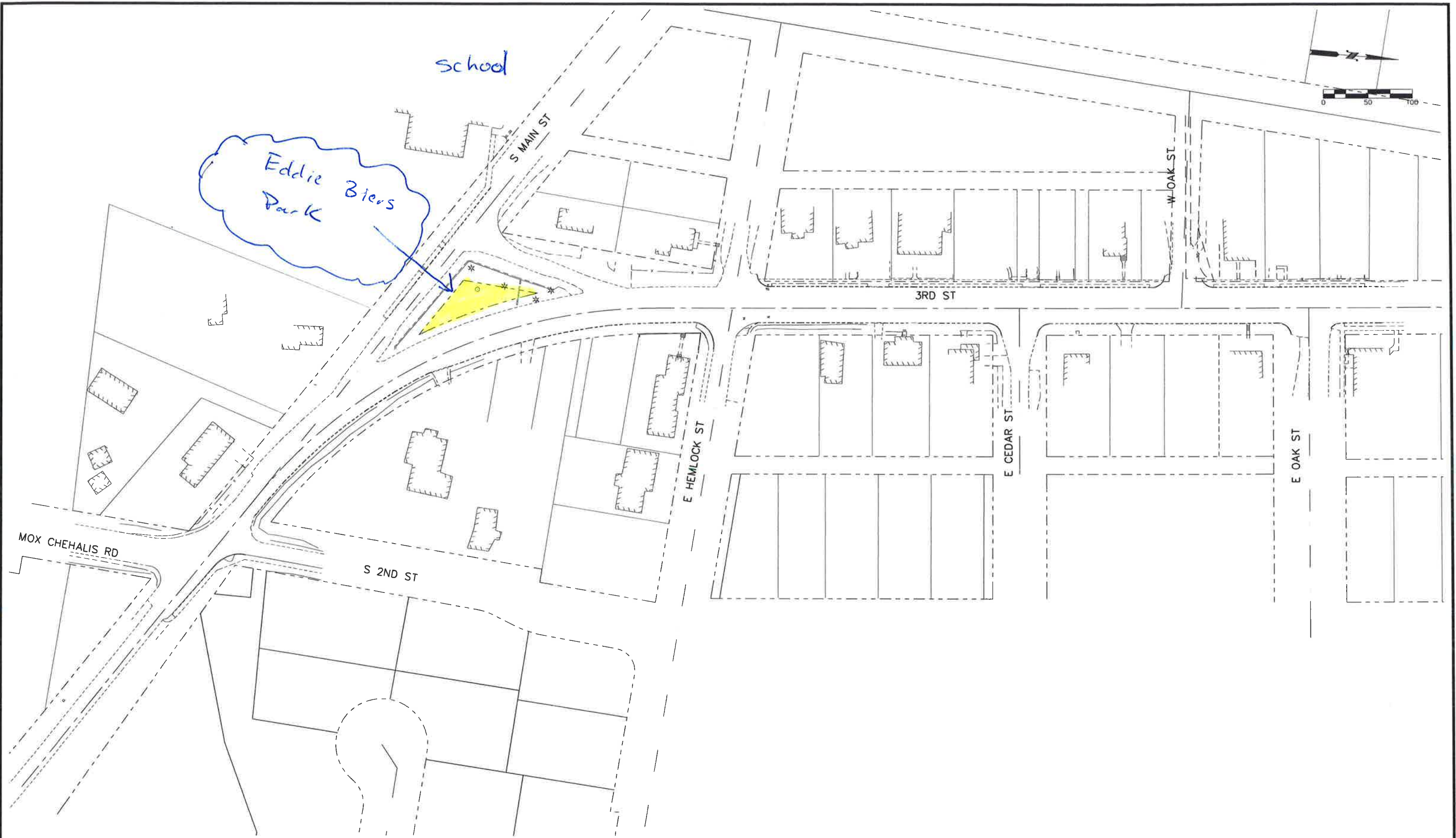
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As part of our 3<sup>rd</sup> Street project that is going to construction next year, the city owns a triangle parcel of property, between 3<sup>rd</sup> Street and Main Street, at the top of the hill. As part of the project, this piece of property will have a new roadway going through it. (See attached.). Since the new roadway will be taking a majority of the parcel, I would like to turn this parcel into Right of Way and also remove it from our parks plan. In our parks plan, there is no improvements planned for this parcel.

After the 3<sup>rd</sup> street project is completed, we will have a landscaped area on the east side of the new road, that we can then rename that area in memorial of Eddie Biers.

**Action Requested:**

Please allow Eddie Biers Park to be converted to Right of Way and to be removed from the park comprehensive plan.



	DATE	REVISIONS		
DESIGNED BY: T. HORTON	8/14/14	NO.	DATE	
ENTERED BY: J. BECKER	8/14/14			
CHECKED BY:				
PROJ. ENGR.: J. BRUHN	8/14/14			

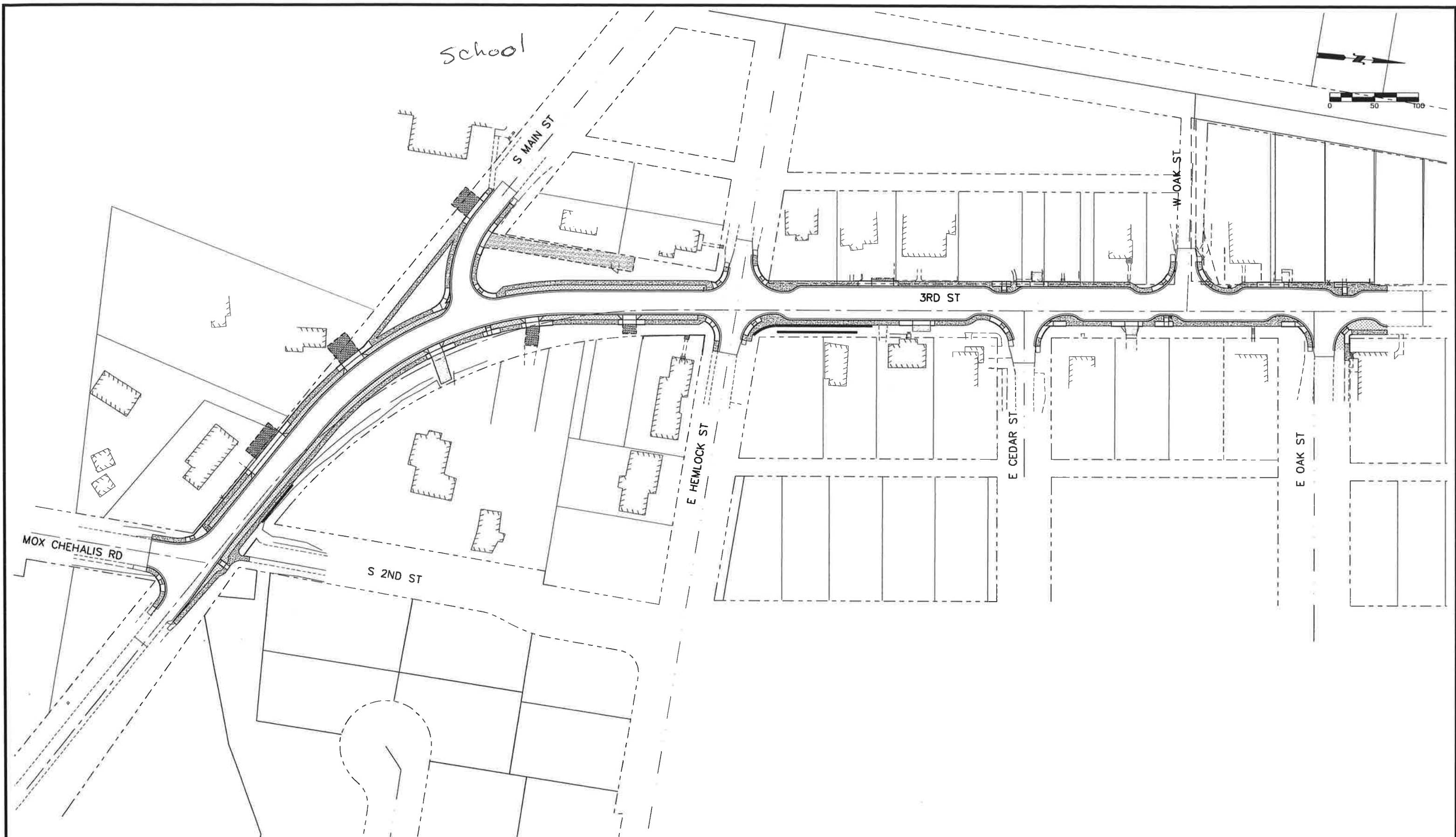
**SKILLINGS  
CONNOLLY**  
5016 Lacey Boulevard SE, Lacey, WA 98503  
Ph.: (360) 491-3399 www.skillings.com

**3RD STREET IMPROVEMENT PROJECT  
CITY OF MCCLEARY**  
MCCLEARY WASHINGTON

**PROPERTY LINES  
WITH TRIANGLE**

JOB NUMBER  
14044

SHEET  
1  
OF  
2  
SHEETS



	DATE	REVISIONS		
DESIGNED BY: T. HORTON	8/14/14	NO.	DATE	
ENTERED BY: J. BECKER	8/14/14			
CHECKED BY:				
PROJ. ENGR.: J. BRUHN	8/14/14			

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**3RD STREET IMPROVEMENT PROJECT  
CITY OF MCCLEARY**  
MCCLEARY WASHINGTON

**PROPERTY LINES  
WITHOUT TRIANGLE**

JOB NUMBER  
14044  
SHEET  
2  
OF  
2  
SHEETS



**TAB - J**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO GOVERNMENTAL OPERATION, REPEALING VARIOUS SECTIONS OF CHAPTER 8.16 MMC, AMENDING AND ADDING NEW SECTIONS TO CHAPTER 8.16 MMC, ADDING A NEW SECTION TO CHAPTER 10.25 MMC, AMENDING SECTION 15.04.060 AND SECTION II (PART), ORDINANCE 479, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

R E C I T A L S:

1. The City staff have undertaken a review of various problems in relation to encouragement of proper maintenance of properties within the City.

2. As a result, it has been found appropriate to update various portions of the Municipal Code relating to such matters.

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

**SECTION 1:** Section 8.16.010 is amended to read as follows:

1. General Standard for Interpretation:

A. Unless otherwise expressly stated or the context otherwise requires, the following terms shall, for the

purposes of this code, have the meanings shown in this chapter.

B. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

2. Definitions: A. "ABATE" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the enforcement officer determines is necessary in the interest of the general health, safety and welfare of the community.

B. "APPROVED" means approved by the public works director, enforcement officer or designated person.

C. "CONDEMN" means to adjudge unfit for occupancy or use.

D. "OFFICER," "ENFORCEMENT OFFICER," or "DESIGNATED PERSON": the Public Works Director, Police Chief or the Fire Chief, or their respective designees, are authorized to and are charged with the administration and enforcement of this code.

E. "EXTERIOR PROPERTY" means the open space on the premises and on adjoining property under the control of owners or operators of such premises.

F. "EXTERMINATION" means the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison, spraying, fumigating, and trapping or by any other approved pest elimination methods.

G. "FIRE HAZARD" means any thing or act which increases or may cause an increase of the hazard or menace of fire to a

greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or any thing or act which may obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

H. "GRAFFITI" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property which is visible from a public or quasi-public place.

I. "IMMINENT DANGER" means a condition which could cause serious or life-threatening injury or death at any time.

J. "INFESTATION" means the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

K. "INOPERABLE MOTOR VEHICLE" means a vehicle which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power, including but not limited to automobile, trailer, truck, or other such vehicle, or any vehicle hulk, motorcycles, snowmobiles or other motorized recreational vehicles.

L. "LET FOR OCCUPANCY OR LET" means to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant

to a recorded or unrecorded agreement of contract for the sale of land.

M. "MMC" means, McCleary Municipal Code.

N. "NOXIOUS WEED" means a plant identified as such upon the listing developed by the Grays Harbor County Noxious Weed Board.

O. "OCCUPANT" means any individual living or sleeping in a building, or having possession of a space within a building and/or any person who has charge, care or control of a structure or premises and/or a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

P. "STRICT LIABILITY OFFENSE" means an offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

Q. "STRUCTURE" means that which is built or constructed or a portion thereof.

R. "JUNK" includes, but is not limited to, all motor vehicles not currently licensed, old or unusual motorized or nonmotorized vehicle or vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances, or parts thereof, old iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

S. "PERSON" means a natural person, firm, partnership, association or corporation, whether he is acting for himself or as representative or agent of another.

~~B. "Person in charge of property" means an agent, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.~~

T. "OWNER" means, any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

U. "PERSON RESPONSIBLE" means:

~~((1. The owner;~~

~~2. The person in charge of property, as defined in subsection B of this section;~~

~~3. The person who caused to come into or continue in existence a nuisance as defined in the ordinance codified in this chapter or another ordinance of this city.))~~

1. The owner, as defined in subsection T of this section;

2. The owner and/or occupant who caused to come into or continue in existence a violation in the ordinance codified in this chapter or another ordinance of this city.

V. "PREMISES" means and includes property, landscaping, plantings, trees, bushes, fences, buildings, fixtures and exterior storage of personal property, equipment, supplies and vehicles, including any structures thereon.

W. "PUBLIC PLACE" means a building, public street, alley or right-of-way, place or accommodation, whether publicly or privately owned, open and available to the general public.

~~E. "Premises" means and includes property, landscaping, plantings, trees, bushes, fences, buildings, fixtures and exterior storage of personal property, equipment, supplies and vehicles.~~

~~F. "Officer," "enforcement officer," or "designated person": the officer or designated person for the purpose of the ordinance codified in this chapter shall mean either the public works director or police chief, as may be applicable under the circumstances and subject to the provisions of RCW 35A.12.100.~~

X. "NUISANCE" or "PUBLIC NUISANCE": unless the context of the use of the term in a particular section or the specific language of this code, including Section 8.16.020, otherwise provides or requires, for purposes of this code a "nuisance" or a "public nuisance" consists of an occupation, use of property, a thing, unlawfully doing an act, or omitting to perform a duty, which occupation, use, thing, act or omission:

1. Unreasonably annoys, injures or endangers the comfort, repose, health or safety of the public or others; or

2. Unreasonably offends decency; or

3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage or use, any lake, stream, canal or basin, or any public park, square, street, alley or highway; or

4. In any way renders other persons unreasonably insecure in life or the use of property; or

5. Unreasonably obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

**SECTION 2:** There shall be added to Chapter 8.16 a new section to read as follows:

A. GENERAL PRINCIPAL OF LIABILITY: Principal of Liability:

Every successive owner of property who upon notification neglects to abate any continuing nuisance upon or in the use of such property caused by a former owner is liable therefor in the same manner as the owner who created it.

B. ADMINISTRATION.

1. The enforcement officer charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The enforcement officer or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of property maintenance inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act



or omission in the performance of official duties in connection therewith.

2. The enforcement officer shall enforce the provisions of this code and shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

3. The enforcement officer shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

4. The enforcement officer shall issue all necessary notices or orders to ensure compliance with this code and shall keep records of all notices or orders specified in the provisions of this code.

**SECTION 3:** Section 8.16.020 is amended to read as follows:

**PUBLIC NUISANCE: ENFORCEMENT**

A. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the enforcement officer determines that any of these conditions exist upon any premises or structure, the enforcement officer may require or provide for the abatement thereof pursuant to this chapter.

1. The construction, maintaining, using, placing, depositing, causing, allowing, leaving or permitting to be or remain in or upon any private or public lot, building, structure, or premises, on, in or upon any street, avenue, alley, park, parkway, or other public or private place in the city, any one or more of the following places, conditions, things or acts to the prejudice, danger or annoyance of others:

2. Accumulations of manure, rubbish or other solid waste: provided that, a compost pile so covered or concealed as not to affect the health, safety or value of adjacent property shall not be so deemed.

3. The presence of insect or rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation. The owner of any structure shall be responsible for extermination in the public or shared areas of the property. The occupant shall be responsible for the continued rodent and pest-free condition of the premises.

4. Limbs or trees overhanging a public sidewalk which are less than nine feet above the surface of said sidewalk or overhanging a city street which are less than fourteen feet above the surface of said street.

5. Any violation of the McCleary Municipal Code which results in a violation of the conditions set forth in the general definitional section.

6. Causing or allowing garbage, waste, refuse, litter, debris, or other offensive materials, to be collected or

deposited, or to remain in any place in the city, to the reasonable annoyance of any person, unless otherwise permitted by law.

7. Premises or residences:

a. Which are in such a state of decay so as to cause an offensive odor, or

b. Which are in an unsanitary condition, or

c. Which create or constitute an unreasonable risk of fire or public safety hazard for adjoining property owners, whether public or private.

8. Overgrown, unkempt vegetation of any type, including grasses and weeds more than twelve (12) inches in height and shrubs, brush, trees, vines and other vegetation which may pose a fire hazard, harbor rodents or attract transient activity.

If the occupant and/or owner fails or neglects to destroy and remove noxious weeds and rubbish, after notice is issued, the City may go upon or authorize and direct the proper municipal employees or their designees to go upon the premises, cut and remove therefrom, noxious weeds and rubbish. Thereafter the jurisdiction shall institute appropriate action against the owner of the premises or structure for the recovery of such costs.

9. Ponds or pools of stagnant water except those areas of wetlands as designated by city, federal or state laws, rules or regulations;

10. Privies, vaults, cesspools, sumps, pits, or like places which are not securely protected from flies and rats or which are foul or malodorous;

11. All unused, abandoned or discarded refrigerators, ice boxes, or like containers which are left in any place exposed or accessible to children; or any water closet, bathtub, or other appliance;

12. All places not properly fenced and licensed which are used or maintained as junkyards or dumping grounds, or for the wrecking, disassembling, repair or rebuilding of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to unreasonably impact or interfere with the comfortable enjoyment of life or property by others.

~~A. Deposit, keep or leave or to permit to be deposited, kept or left in any place accessible to children, or in any place viewable from a public street or alley, any abandoned, unused, unlicensed, nonrunning or discarded automobile, trailer, truck, or other such vehicle, or any vehicle hulk or any part thereof. For the purposes of this subsection, "abandoned, unused, nonrunning" refers to a vehicle which is not movable under its own power and which has been in a stationary position for more than fourteen days.~~

13. Vehicles of Certain Classifications:

A. Except as specifically authorized in other regulations, including subsection B,

1. No inoperable motor vehicle shall be deposited, kept, left or permitted to be deposited, kept or left in any place

accessible to children, nor in any place viewable from a public street or alley,

2. Unless kept within a structure or similarly enclosed area approved for such use, no inoperative, abandoned, unused, non-running or discarded inoperable motor vehicle, or other such vehicle, or any vehicle hulk or any part thereof, shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, damaged to the extent it prevents normal operation, or in the process of being stripped or dismantled.

3. Painting of vehicles is prohibited unless conducted inside an approved spray booth, or disassembling, repair or rebuilding of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof.

B. A vehicle of any type or condition is permitted to undergo repair or overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

The term "junk" as used in this section includes all motor vehicles not currently licensed, old or unusual motorized or nonmotorized vehicle or vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances, or parts thereof, old iron or other metal, glass, paper, lumber, wood, or other waste or discarded material;

14. The depositing or burning of or causing to be deposited or burned in any street, alley, sidewalk, park, parkway, or other public place which is open to travel, any hay, straw, grass, grass clippings, papers, wood, boards,

boxes, leaves, manure, or other rubbish or material except by permission of the fire marshal;

15. The existence of any dead, diseased, infested or dying tree that may constitute a danger to property or persons. No tree on property which abuts upon a street or public sidewalk shall interfere with street or sidewalk traffic;

16. Any cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, pipe, metal articles, plaster, and all other trash or abandoned material, unless the same is kept in covered bins or metal receptacles approved by the director of public works and further except for recyclables kept in approved containers;

17. Any trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding accessories, packing hay, straw, or other packing material, scrap iron, tin, pipe, and other metal;

18. Lumber, roofing or siding materials, logs, or pilings not so stacked, piled or arranged as to be free from being dangerous to or/and accessible to children;

19. Any of the following not properly secured from access by the public: provided that the building official shall have concurrent jurisdiction in relation to any covered structures:

a. Any unsightly or dangerous building, billboard, or other structure, or

b. Any abandoned or partially destroyed building or structure.

20. Repair upon the public streets, alleys or other public property of the city of any automobile, truck, or other

motor vehicle or any other device required to possess a license issued by the Department of Motor Vehicles/Licenses of this state or the state of its registration except for emergency repairs not to exceed twenty-four hours and only so long as it is so located as to not constitute a hazard or unreasonable interference to pedestrian or motor vehicle travel.

21. Any putrid, unsound or unwholesome bones, meat, hides, skins, skeletons, or other whole or part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste, vegetable or animal matter, in any quantity, garbage, human excreta, or other offensive substance, provided nothing contained in this chapter shall prevent the temporary retention of waste in receptacles in the manner approved by the director of public works of the city or the local disposal company.

22. Except to the extent allowed by the lawful terms of a permit issued by the governmental authority having jurisdiction thereof, burning or disposal of refuse, sawdust, or other material in such a manner to cause or permit ashes, sawdust, soot or cinders to be cast upon the streets or alleys of the city, or to cause or permit dense smoke, noxious fumes, ashes, soot or gases arising from such burning to become annoying or injurious to the health, comfort or repose of the general public.

23. The existence of any vines, plants growing into or over any street, sidewalk, public hydrant, pole or electrolier, or the existence of any shrub, vine or plant, growing on, around, or in front of any hydrant, stand pipe, sprinkler system connection, or any other appliance or

facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto, or obstruct or interfere with the proper diffusion from the light from any street lamp, or obstruct the vision of vehicle or pedestrian traffic.

24. Any poisonous or harmful substance which is reasonably accessible to persons or to animals.

25. The existence of any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed, or other dilapidated or unsafe condition.

26. All trees, hedges, billboards, fences, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached;

27. All explosives, flammable liquids, and other dangerous substances stored in any manner or in any amount other than that provided by ordinance;

~~28. ((Maintaining within or allowing to be maintained, procuring or keeping within the city any dangerous animal. For purposes of this chapter, a dangerous animal shall mean any animal, other than the common household cat or dog or native bee, that is capable of killing or seriously injuring a human being, whether such injury be inflicted by the utilization of venom, constriction, claw, bite, or otherwise: provided that, this provision shall not apply so long as the animal is located within a facility such as a zoo or wildlife refuge owned and operated by a governmental agency or a nonprofit~~



~~entity recognized as such under the laws of the state of Washington and the Internal Revenue Code of the United States of America or within a properly licensed veterinary hospital where such animal is confined temporarily for treatment;))~~

For any person to obstruct or encroach upon public highways, streets, private ways, alleys and ways open to the public, including cemeteries, or to unlawfully obstruct or impede the flow of municipal transit vehicles, as defined in RCW 46.04.355, as now existing or hereafter amended or succeeded, or passenger traffic, or to otherwise interfere with the provision or use of public transportation services, or obstruct or impede a municipal transit driver, operator, employee or supervisor in the performance of that individual's duties.

29. For any person to erect, continue or use any building or other structure or place for the exercise of any trade, activity, employment or manufacture, which, by occasioning obnoxious, hazardous or toxic exhausts or emissions, offensive smells, or otherwise, is offensive or dangerous to the health of individuals or the public;.

**SECTION 4.** Section 8.16.030 MMC is amended to read as follows:

A. Bases of Liability:

1. It is unlawful for any responsible person, party or owner to create, permit, maintain, suffer, carry on or allow upon any premises any of the acts or things declared by the ordinance codified in this chapter to be a public nuisance.

2. Every successive owner or responsible party of property who, following receipt of written notification of the nuisance, neglects or fails to abate in a timely manner any

continuing nuisance upon or in the use of such property caused by a former owner or responsible party, is liable therefor in the same manner as the owner who created it.

**SECTION 5:** There shall be added to Chapter 8.16 a new section to read as follows:

A. The owner of the premises shall maintain the structures, premises and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this code. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

B. It shall be unlawful for the owner of any dwelling unit or structure who has received a notice and order or upon whom a notice and order has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the notice and order has been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice and order issued by the enforcement officer and shall furnish to the enforcement officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice and order and fully accepting the responsibility without condition for making the corrections or repairs required by such notice and order.

C. It is unlawful for any person to enter any unoccupied building and commit a nuisance therein.

**SECTION 6:** Section 8.16.040 shall be amended to read as follows:

Enforcement-Notice.

~~1. The enforcement officer, upon receiving a written complaint from any neighbor, person, citizen or other source, or becoming aware that a nuisance may exist, shall investigate the complaint or information with all reasonable dispatch.~~

~~2. The enforcement officer, upon finding any condition in violation of the ordinance codified in this chapter, shall cause any owner or other responsible person to be notified in writing of the existence of the public nuisance, including posting of a notice on the premises where the nuisance exists, directing the owner and occupant of the property to abate the condition within ten calendar days after notice or other reasonable period. If not personally served, the written notice shall be mailed to the last known address of the owner or other responsible person, with copies being transmitted by first class post and certified mail.~~

~~3. At the time of posting, if in the determination by the enforcement officer said property appears abandoned, a copy of such notice shall be forwarded by certified mail to the legal owner or designated guardian, postage paid, and if known or disclosed from official public records of the tax assessor's office, to the holder of any other legal interest in the building or land created by contract, deed of trust, mortgage or deed.~~

A. The enforcement officer having knowledge of any public nuisance shall cause any property owner and occupants

to be notified in writing of the existence of a public nuisance on the premises and shall order the owner and occupants to abate the violation within a reasonable period of time. The notice shall be served either personally or by first class and certified mail with return receipt requested.

B. If the condition is not corrected and the violation continues following the time frame indicated in 8.16.040 (1), the enforcement officer shall be authorized to issue and serve a notice of infraction to the owners or persons in control of the subject property,

C. If the condition is not corrected and the violation continues following the notice of infraction or infractions, posting of a notice on the premises where the nuisance exists, directing the owner or occupants in charge of the property to abate the condition within the time given. If not personally served, the written notice shall be mailed at the address of record at the Grays Harbor County assessor's office, or at the discretion of the enforcement officer to such other person in control of the subject property owner or other responsible person, transmitted by first class and certified mail.

D. The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, agent, lessees, or other person occupying or having charge or control of the building, lot, or premises \_\_\_\_\_ you are hereby notified that the undersigned, pursuant to Ordinance Number/Code Section \_\_\_\_\_ of the City of McCleary has determined that there exists upon or adjoining said premises the following condition contrary to the

provisions of subsection \_\_\_\_\_ of Ordinance Number/Code  
Section \_\_\_\_\_.

You are hereby notified to abate or correct said condition to the satisfaction of the undersigned within ten (10) days of the date of this notice. If you do not abate, correct or appeal such condition within ten (10) days, the City may without further notice to you abate the condition at your expense.

Dated:\_\_\_\_\_.

By

(Name of Enforcement Officer & Title)

**SECTION 7:** Section 8.16.040 shall be amended to read as follows:

Appeal Process: Within the time allowed after posting and mailing of such notice, as provided in Section 8.16.040 of this chapter, the person responsible shall remove the nuisance or within the same ten-day time period show to the reasonable satisfaction of the enforcement officer that no nuisance exists.

A. An owner or person responsible protesting that no nuisance exists shall file with the public works director a written statement which shall specify the basis for so protesting within the ten-day period allowed for removal pursuant to Section 8.16.040. The statement shall set out with reasonable specificity the factual matters which are the basis of the protest.

B. The statement shall be referred to the mayor for administrative review. In undertaking such a review, the mayor shall consider such materials as are within the file,

including those submitted by the party protesting the decision. The mayor may also undertake a personal view of the site or condition at issue. If such visit is determined to be appropriate, the protestor shall be given prior notice of that intention and shall be allowed to be present at that time. If determined necessary and appropriate by the mayor, an informal conference may be held at which the protestor and all other interested parties and persons may present such factual and legal information as is determined relevant by the mayor. Following such administrative review, the mayor shall determine whether or not a nuisance in fact exists, and the determination shall be issued in writing, shall be entered in the official records of the city, and a copy provided to the appellant. An administrative review shall be required only in those instances where a written statement has been filed as provided within this section. The decision issued by the Mayor shall be subject to judicial review as provided by RCW 36.70C.

C. If the administrative review determines that a nuisance does in fact exist and no appeal is timely filed, the person responsible shall, within the time specified after the administrative determination, abate the nuisance.

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance, and for the costs incurred by the city in abating the nuisance.

If, within the time allowed, the nuisance has not been abated by the person or persons responsible, the city may cause the nuisance to be abated.

**SECTION 8:** Sections 8.15.050, 8.16.090, 8.16.100, and 110 shall be repealed.

**SECTION 9:** A new section shall be added to Chapter 8.16 to read as follows:

Unsafe equipment, machinery.

A. It is a nuisance and unlawful for any person to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth, and unsafe equipment, as defined in subsection B, and which is owned or controlled by that person to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery or, as to unsafe equipment, to allow the presence of unsafe equipment upon the premises or property.

B. For purposes of this section, the term "unsafe equipment" includes, but is not limited to, any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or property the condition of which creates an unreasonable risk to the safety of persons entering upon the property or to adjacent properties.

**SECTION 10:** A new section shall be added to Chapter 8.16 to read as follows:

Unsafe, unlawful, unfit structure.

A. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event

of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. A structure is unfit for human occupancy whenever the enforcement officer finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary, heating, drinking or other essential equipment, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

C. An unlawful structure is one found in whole or in part to be occupied by more persons, or was erected, altered or occupied contrary to the McCleary Municipal Code.

D. When a structure or equipment is found by the enforcement officer to be unsafe, or when a structure is found unfit for human occupancy, or when a structure is found be unlawful, such structure shall be condemned pursuant to the provisions of this Chapter.

**SECTION 11:** A new section shall be added to Chapter 8.16 to read as follows:

Structures, buildings and premises.

A. The owner of the premises shall maintain the structures, premises, and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the



requirements of this code. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

B. Requirements:

1. Every agent or owner of any unoccupied building in the city shall keep the same securely closed at all times against persons who may enter and commit a nuisance therein.

2. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

3. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

4. All fences shall be constructed with materials which are designed or normally utilized for that purpose unless an exception is granted by the enforcement officer.

5. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

6. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

7. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant and/or owner shall keep that part of the exterior

property which such occupant and/or owner occupies or controls in a clean and sanitary condition.

8. It shall be the responsibility of the owner to restore to an approved state of maintenance and repair the exterior surface of any structure or building on any private or public property which has been damaged, mutilated or defaced by the placing thereon of any marking, carving or graffiti without the owner's consent.

9. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

10. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition.

11. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

12. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or

rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

13. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

14. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

15. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

16. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight.

17. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

18. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in

a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

19. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

20. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the enforcement officer shall require the defects to be corrected to eliminate the hazard.

21. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

22. Dwellings shall be provided with permanently installed, safe, functioning heating facilities and an approved power or fuel supply system capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating.

23. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

C. Enforcement: When the enforcement officer finds a violation to exist, the enforcement officer will follow the provisions set forth in MMC 8.16.040 unless otherwise deemed as provided in Section IX of this ordinance.

**SECTION 12:** Section 8.16.170 shall be repealed.

**SECTION 13:** A new section shall be added to Chapter 8.16 to read as follows:

**Property on City Right of Way:**

A. All property left on the public right-of-way by either [1] the owner of the property or the owner's authorized representative or [2] the evicted tenant as a result of an eviction or an unlawful detainer action shall be deemed abandoned and is hereby declared a public nuisance.

B. Any items which remain on the public right-of-way of any street, alley or sidewalk for a period of forty-eight hours, including but not limited to any personal or household items, furniture, appliances, machinery, equipment, building materials, or other items shall be deemed abandoned and to constitute a public nuisance subject to removal by the city with or without notice.

C. The costs of abatement may be assessed against the person placing the items upon the right of way and, if done with the knowledge of the owner of the abutting property, the abutting property from which the items were removed, for

collection in the manner provided in the provisions in this chapter.

**SECTION 14:** There shall be added to Chapter 8.16 a new section to read as follows:

Closing of structures, buildings, equipment, premises.

A. Whenever the enforcement officer has condemned a structure or equipment, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person and/or persons responsible for the structure and/or equipment in accordance with Section XVII of this ordinance. If the notice pertains to equipment, it shall also be placed on the condemned equipment.

B. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, any occupied structure, building or equipment shall be vacated as ordered by the enforcement officer. Any person who shall occupy the premises or operate the equipment, any owner or any person responsible for the premises who shall let anyone occupy the premises or operate the equipment, that person shall be and/or shall also be responsible and will be liable for any penalties provided in this chapter.

C. The enforcement officer is authorized to enter the structure and/or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the enforcement officer is authorized to seek an order or warrant granting access to the structure or premises pursuant to Section 19 of this ordinance.

D. The enforcement officer is authorized to post, as provided in Section 16 of this ordinance, on the premises and

order the structure closed up so as not to be a public nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the enforcement officer shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any means provided in this chapter.

E. Notwithstanding other provisions of this code, the enforcement officer shall order the necessary work to be done, including the boarding up of openings and/or the fencing of premises, to render such structure/premise temporarily safe.

F. The enforcement officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**SECTION 15:** There shall be added to Chapter 8.16 a new section to read as follows:

**Demolition or repair:**

A. The enforcement officer shall order, as provided in Section 16 of this ordinance, the owner of any premises upon which is located any structure to take one of the following actions, which in the enforcement officer's judgment, is the most appropriate given the condition of the premises or structure:

1. If it is so dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or

2. If such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or

3. Where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

B. If the owner of a premises fails to comply with a demolition order, as provided in Section 16, or does not appeal the order pursuant to Section 17.40.090 MMC, the enforcement officer shall cause the structure to be repaired or demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such repair or demolition and removal shall be charged against the real estate upon which the structure is located, and the legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises.

C. When any structure has been ordered demolished and removed, the governing body or its designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials, at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

**SECTION 16:** There shall be added to Chapter 8.16 a new section to read as follows:



Notice to Repair or Demolish:

A. Notice of the issuance of an order to repair or demolish a premises or structure or other enforcement action pursuant to this chapter shall be given as follows:

1. Posting of a notice on the premises where the structure exists, directing the owner or occupants in charge of the property to demolish the structures within the time given.

2. In addition to posting as provided by sub-paragraph 1, the written notice shall be, if not personally served, mailed at the address of record at the Grays Harbor County assessor's office, or at the discretion of the enforcement officer to such other person in control of the subject property owner or other responsible person, transmitted by first class post and certified mail.

B. The contents of the notice of the order shall be as follows;

Notice to Demolish  
Unlawful and/or Unsafe Structure

Name of Owner  
Or Current Resident  
Address

As owner, agent, lessees, or other person occupying or having charge or control of the building, lot, or premises located at, Address, you are hereby notified that the undersigned, pursuant to Chapter 8.16.\_\_\_\_ of the City of McCleary has

determined that there exists upon said premises the following conditions contrary to the provisions of that Code:

listing of conditions upon which decision is based

You are hereby notified to Demolish the structure by Time on Date unless an appeal of this decision is filed and served as provided by Section 17.40.090 MMC.

Enforcement Officer  
Of The  
City of McCleary  
Date

**SECTION 17:** Section 8.16.100 shall be and is hereby repealed.

**SECTION 18:** There shall be added to Chapter 8.16 a new section to read as follows:

Notice to Vacate

A. The issuance of an order prohibiting occupancy of the premises, requiring its immediate vacation and enforcement action pursuant to this chapter shall be carried out as follows.

B. Posting of a notice on the premises where the violation exists, directing the owner or occupants in charge of the property to Vacate the violation within the time given. The written notice shall be, if not personally served, mailed to the address of record at the Grays Harbor County Assessor's office, or at the discretion of the enforcement officer, to such other person in control of the subject property, the owner or other responsible person, by first class post and

certified mail. C. The contents of the order shall be basically as follows:

Notice to Vacate  
Unlawful Condition

Name of Owner  
Or Current Resident  
Address

As owner, agent, lessees, or other person occupying or having charge or control of the building, lot, or premises located at, (Insert Address), you are hereby notified that the undersigned, pursuant to Section \_\_\_\_ of the Municipal Code, as the Code Enforcement Officer of the City of McCleary, has determined that there exists upon said premises the following conditions contrary to the provisions of Section/s \_\_\_\_ of the Municipal Code.

You are hereby notified to Vacate by \_\_\_\_ PM on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Enforcement Officer  
Of The  
City of McCleary  
Date

**SECTION 19:** There shall be added to Chapter 8.16 a new section to read as follows:

Right of entry: Warrant Basis

In the event the enforcement officer has been denied, refused and/or not obtained entry to any structure, dwelling unit, building, or property/premises, and the enforcement officer having reason to examine the structure, dwelling unit, building, or property/premises pursuant to a violation in the Municipal Code, may apply for a warrant for the structure, dwelling unit, building, property, and/or premises.

A. Before a warrant is issued by the judge, the enforcement officer must set forth by affidavit or declaration under oath the ordinance or ordinances upon which he is proceeding, and state the circumstances upon which he is seeking the warrant.

B. If the judge finds that the enforcement officer is proceeding according to the provisions of the Municipal Code and finds appropriate grounds for the issuance of the warrant exists, he shall issue a warrant for the search of the structure, dwelling unit, building, or property/premises.

C. If a warrant is issued, the enforcement officer shall make a return to the court of issuance. The enforcement officer's return shall consist of:

1. An affidavit stating the time of issuance;
2. The time the structure, dwelling unit, building, or property/premises was searched;
3. The mode of service: Service of the Warrant may be accomplished as follows:

(a) by serving a copy of the warrant upon the owner of the premises, occupant or other person having charge of said premises or, if such delivery has not been accomplished after reasonable efforts by the enforcement officer,

(b) by posting notice of the warrant upon the property and thereafter sending a copy of the warrant and notice of posting to the last known address of the owner or person having charge of the property by first class mail and certified mail, return receipt requested.

**SECTION 20:** Sections 8.16.190, 8.16.200, and 8.16.205 shall be and are hereby repealed.

**SECTION 21:** There shall be added to Chapter 8.16 a new section to read as follows:

Abatement by city. In the absence of any other provision of Chapter 8.16 or other provisions of the Municipal Code governing the matters set forth below, including an order of abatement having been issued pursuant to a different provision of Chapter 8.16, the following provisions shall apply:

A. In all cases where the city has determined to proceed with abatement, after giving the required notifications and having obtained any necessary court order, the city shall acquire jurisdiction to abate the condition at the person's expense as provided in this chapter. Upon the abatement of the condition or any portion thereof by the city, all the expenses thereof shall constitute a civil debt owing to the city jointly and severally by such persons who have been given notice as provided in this chapter. The debt shall be collectible in the same manner as any other civil debt owing to the city. It shall become a lien against the property and may be collected in such manner as provided in this chapter.

B. The enforcement officer shall order the necessary work to be done, including the boarding up of openings and/or the fencing of premises, to render such structure/premises

temporarily safe and shall cause such other action to be taken as the enforcement officer deems reasonably necessary to abate such nuisance.

C. For the purposes of this code, the enforcement officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

D. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule;

Re-inspection fees may be assessed if work is incomplete, corrections not completed or the allotted time is depleted. All City of McCleary fees shall be established by the City of McCleary Development fee schedule. Fees will be assessed at the hourly charge in minimum fifteen (15) minute increments.

E. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or structure for the recovery of such costs pursuant to this chapter.

**SECTION 22:** Sections 8.16.210 and 8.16.215 of the Municipal Code shall be and are hereby repealed.

**SECTION 23:** There shall be added to Chapter 8.16 MMC a new section to read as follows:

Situations Constituting an Immediate Danger.

A. Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, the enforcement officer shall have the authority to summarily and without notice abate the same to the extent and subject to the

provisions of applicable law, including through an available public agency or by contract or arrangement with private persons. The expenses of such abatement shall become a civil debt against the owner or other responsible party and be collected as provided in this chapter.

B. Whenever, in the opinion of the enforcement officer, there is imminent danger due to an unsafe condition, the enforcement officer shall have the authority order the necessary work to be done, including the boarding up of openings and/or the fencing of premises, to render such structure/premise temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the enforcement officer deems necessary to meet such emergency.

C. The enforcement officer, upon approval from the public works director, shall have the authority to authorize disconnection of utility service to the building or structure in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The enforcement officer shall notify the serving utility and whenever possible, the owner and occupant of the building or structure of the decision prior to taking action. If not notified prior to disconnection, the owner or occupant of the building or structure shall be notified in writing as soon as practical thereafter.

D. As soon as is reasonably possible, including to the extent possible, notice of the conclusion reached by the Enforcement Officer of the dangerous conditions creating the immediate danger shall be given to the owner, occupant, and/or

manager. Such notice shall be given in the manner set forth in Section 17 of this Ordinance.

**SECTION 24:** Section 8.16.220 shall and is hereby amended to read as follows:

Abatement moneys.

~~All moneys collected for abatement purposes, as provided in this chapter, shall be separately stated and itemized by the clerk of the police court in his report to the city clerk-treasurer and shall be credited by the city clerk-treasurer to the department or division of the city government which shall be actually employed in the abatement of the nuisance.~~

A. The governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials, at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, to the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

B. All moneys collected for abatement purposes, as provided in this chapter, shall be separately stated and itemized by the enforcement officer in his report and shall be credited by the city clerk-treasurer to the department or division of the city government which shall be actually employed in the abatement by the city.

**SECTION 25:** Section 8.16.230 shall be amended to read as follows:

Penalty.



~~A. Any person violating any of the provisions of the ordinance codified in this chapter shall be subject to the following penalty or punishments:~~

~~1. In the event of a first violation within any six-month period, be issued a notice of infraction and, upon a finding of committed, be subject to a penalty of up to two hundred fifty dollars.~~

~~2. In the event of a second violation within any six-month period, be issued a notice of infraction and, upon a finding of committed, be subject to a penalty of up to five hundred dollars, one hundred fifty dollars of which may be neither suspended nor deferred.~~

~~3. In the event of a third and subsequent violation within any six-month period, be subject to issuance of a criminal citation, and upon conviction, be guilty of a misdemeanor and, subject to punishment by a fine not to exceed one thousand dollars, two hundred fifty dollars of which shall be neither suspended nor deferred, by imprisonment in jail not to exceed ninety days, or by both such fine and imprisonment.~~

~~B. In addition to any other penalty, fine or imprisonment which may be imposed, the court may direct the correction or elimination of the nuisance and in the event the party fails to timely correct, order such correction to be carried out and require the party to pay the costs related to such correction or elimination. In the event that summary abatement has been carried out pursuant to the authority in Section 8.16.215 of this chapter, the costs incurred by the city in so acting may be imposed.~~

A. Any person violating any of the provisions of this chapter shall be subject to the following penalty or punishments:

1. In the event of a first violation having been found to have been committed within any twelve-month period, be issued a notice of infraction and, upon a finding of committed, be subject to a penalty of up to two hundred fifty dollars.

2. In the event of a second violation within any twelve-month period, be issued a notice of infraction and, upon a finding of committed, be subject to a penalty of up to five hundred dollars, one hundred fifty dollars of which may be neither suspended nor deferred.

3. In the event, after two findings of committed within the twelve month period, a third or subsequent violation is determined to have occurred within that twelve-month period by the enforcement officer, be subject to issuance of a criminal citation, and upon conviction, be guilty of a misdemeanor and, subject to punishment by a fine not to exceed one thousand dollars, two hundred fifty dollars of which shall be neither suspended nor deferred, by imprisonment in jail not to exceed ninety days, or by both such fine

and imprisonment. Each day that a violation exists may constitute a separate violation of this chapter.

B. In addition to any other penalty, fine, or imprisonment which may be imposed, the court may direct the correction or abatement of the nuisance and in the event that the party continues to fail to timely correct, order such correction or abatement be performed by the city using any lawful means. The city may enter unsecured property and may remove, correct or abate the nuisance which is subject to abatement. If the person does not consent to entry, the city may seek judicial process from the court, as it deems necessary, to effect the removal, correction or abatement of the nuisance. The costs, including incidental expenses of correcting the violation, may be billed to the owners, persons or occupants in control of the subject property, and if the owners, persons or occupants in control fail to remit payment in a timely manner, the city may file a lien for the cost of any abatement proceedings and all other related and incidental costs against the real property upon which any of the work of the abatement was performed. A notice of the city's lien, specifying the expenses incurred in abating the nuisance and giving the legal description of the

premises sought to be charged, shall be filed with the county auditor within ninety days from the date of the abatement and the same may at any time thereafter be collected in the manner for foreclosure of a mechanic's or labor lien under the laws of the state of Washington. In addition to a lien, the debt shall be collectible in the same manner as any other civil debt owing to the city, and the city may pursue collection of the costs of any abatement proceedings under this chapter by any other lawful means, including but not limited to a collection agency. Any person sent a bill or notice of the costs due for an abatement of a nuisance may request a hearing before the court to determine if the costs should be assessed, reduced, or waived. A request for hearing shall be made in writing and filed with the court no later than seven days from the date of mailing of the bill or notice of costs due for the abatement. Each request for a hearing shall contain the address and telephone number of the person requesting the hearing, and shall set out the basis for the appeal. Failure to request a hearing within seven days from the mailing of the bill or notice of costs due for the abatement shall be a waiver of the right to

contest the validity of the costs incurred in the abatement of the violation.

**SECTION 26:** There shall be added to Chapter 8.16 a new section to read as follows:

Injunction as Alternative Relief.

As an alternative, or in addition to abatement and other proceedings authorized by the Municipal Code, the city may, at its option, institute civil proceedings as appropriate to enjoin the nuisance.

**SECTION 27:** A new section shall be added to Chapter 10.25 to read as follows:

A. Wrecked, dismantled or inoperative vehicles - prohibited activity.

1. No person may park, store or abandon a wrecked, dismantled or inoperative vehicle, or part thereof on private property, except where the following conditions apply:

a. A vehicle or vehicle part is completely enclosed within a building in a lawful manner where it is not visible from the street or from other public or private property; or

b. A vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed auto

repair business or licensed vehicle dealer and is fenced as required by state law.

B. Violation Notice Required.

1. Whenever a vehicle has been determined to be a wrecked, dismantled or inoperative vehicle or as an abandoned vehicle, the last registered vehicle owner of record and the land owner of record where the vehicle is located shall each be given notice by certified mail that a hearing may be requested before the hearing examiner. If no hearing is requested within ten days from the certified date of receipt of the notice, the vehicle shall be removed by the city.

2. If a request for hearing is received within ten days, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or vehicles shall be mailed by certified or registered mail, with five-day return receipt requested, to the land owner as shown on the last equalized assessment roll and to the last registered and legal owner of record of each vehicle unless the vehicle identification numbers are not available to determine ownership.

C. Determination of responsibility.

1. The owner of the land on which the vehicle is located may appear in person at the hearing or

present a written sworn statement in time for consideration at the hearing. The owner may deny responsibility for the presence of the vehicle on the land stating the reason for such denial. If it is determined by the hearing examiner that the vehicle was placed on the land without consent of the land owner and that the land owner has not subsequently acquiesced in its presence, then costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located nor otherwise be collected from the land owner.

2. Nothing in this chapter shall relieve the landowner of any civil penalties which may accrue from any code violation related to the improper placement, parking or storage of vehicles or parts thereof to which the landowner has consented or acquiesced.

D. In addition to determination of responsibility as provided for in paragraph C, the hearing examiner shall receive and examine evidence on other relevant matters, including whether a public nuisance as defined in this chapter exists. The decision of the hearing examiner shall be final, but

shall be subject to appeal as provided in Section 17.40.090 MMC.

E. Abatement and removal authorized: The city may remove any abandoned, wrecked, dismantled or inoperative vehicle, automobile hulk or part thereof, after complying with the notice requirements of subparagraph B. The proceeds of any such disposition shall be used to defray the costs of abatement and removal of any such a vehicle, including costs of administration and enforcement.

F. Costs of abatement and removal.

1. The costs of abatement and removal of any such vehicle or remnant part, including costs of administration and enforcement, shall be collected from the last registered vehicle owner if the identity of such owner can be determined, unless such owner in the transfer of ownership thereof has complied with RCW 46.12.101.

2. If the vehicle owner cannot be established, the costs of abatement and enforcement shall be collected from the land owner on which the vehicle or remnant part is located, unless the landowner has shown as provided in sub-paragraph C.1 that the vehicle or remnant part was placed on such property without the landowner's consent or acquiescence.



G. Costs of administration for the removal and disposal of vehicles or remnant parts may be recovered according to the lien and personal obligation provisions as provided in this chapter.

**SECTION 28:** Section 15.04.060 and Section II (part), Ordinance 479 are amended to read as follows:

In the event of conflict among the Uniform and International Codes, Rules, Regulations or other provisions adopted by this chapter, then the ((Uniform Building)) more restrictive Rule, Regulation, Provision or Code shall govern over any other conflicting Rule, Regulation, Provision or Code.

**SECTION 29:** Interpretation:

A. In the event of a conflict between a general requirement or condition in this chapter and a specific requirement or condition, the specific requirement or condition or the most restrictive thereof shall apply.

B. Recognizing the preemptive status of applicable state and federal laws, rules and regulations, in the event of any conflict between a provision of this chapter and any such law, rule or regulation, the provision shall not be deemed to preempt such law, rule or regulation.

**SECTION 30:** 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 31:** This Ordinance shall take effect upon the fifth day following date of publication of this ordinance or a synopsis thereof.

**SECTION 32:** Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017, by the City Council of the City of McCleary, and signed in approval therewith this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF McCLEARY:

\_\_\_\_\_  
BRENT SCHILLER, Mayor

ATTEST:

\_\_\_\_\_

WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

---

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON     )  
                                      : ss.  
GRAYS HARBOR COUNTY     )

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

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WENDY COLLINS

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

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