

McCleary Regular City Council Meeting

Wednesday, May 22, 2024 – 6:30 PM McCleary Community Center & Zoom Virtual Meeting

Agenda

Join Zoom Meeting

https://us06web.zoom.us/webinar/register/WN kkuYO8EiRPqPfxSty-U94w

Meeting ID: 817 9207 7978

Passcode: 144764

(253) 215-8782

Call to Order/Flag Salute/Roll Call

Agenda Modifications/Acceptance

Presentations

1. Aquifer Study

Public Hearing

2. Signs Ordinance - Continued from 05/08/2024 Meeting

Public Comment - Agenda Items Only

Consent Agenda

- 3. Accounts Payable May 1-15, 2024 Ck Numbers 53309-53367 Including EFT's Totaling \$265,471.88
- 4. Meeting Minutes May 8, 2024

Updates

5. Water Discussion

New Business

Old Business

- 6. SCJ Contract Modification
- 7. WA Families Clean Energy Credits Grant Contract with Department of Commerce

Ordinances and Resolutions

- 8. Signs Ordinance
- 9. Public Records Ordinance
- 10. Comprehensive Plan Ordinance
- 11. Camera Policy Resolution

Public Comment - City Business Only

Executive Session

Council Comments

- **Mayor Comments**
- Adjourn

Please turn off Cell Phones- Thank you

Americans with Disabilities Act (ADA) Accommodation is Provided Upon Request. The City of McCleary is an equal opportunity provider and employer. La ciudad de McCleary as un proveedor de igualdad de oportunidades y el empleador.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MCCLEARY REPEALING AND REPLACING MCCLEARY MUNICIPAL CODE SECTION 17.28.090 "SIGNS"; ADOPTING NEW RULES AND REGULATIONS GOVERNING SIGNS IN THE CITY OF MCCLEARY.

RECITALS:

WHEREAS, United States Supreme Court decisions, specifically *Reed v. Gilbert*, have changed the manner in which signs may be regulated; and

WHEREAS, City of McCleary staff is intent on keeping the Sign Code within the Municipal Code compliant with all Federal and State statutes and court decisions; and

WHEREAS, City of McCleary staff determined that the manner in which signs are regulated in the City of McCleary may be more easily and effectively accomplished by categorizing signs by their physical appearance rather than message; and

WHEREAS, the City Council held a public hearing on ______ to consider this Ordinance; and

WHEREAS, the City finds that repealing and replacing MMC Section 17.28.090 with the proposed sign verbiage will ensure the City's Municipal Code is aligned with the Supreme Court decision and will make the administration of the Sign Code more simple and equitable for City staff, citizens, and business owners alike;

NOW, THEREFORE, the City Council of the City of McCleary, Washington do ordain as follows:

SECTION I: MMC Section 17.28.090 titled "Signs", last amended by Ordinance 749 sec. I, 2008, is repealed in its entirety.

<u>SECTION II</u>: MMC Section 17.28.090 titled "Temporary and Special Signs" is hereby added to read as follows:

17.28.090 Temporary and Special Signs

<u>A.</u> <u>Scope and Purpose: This chapter establishes regulations governing the installation, alteration, relocation, maintenance, use and removal of all signs in the City. It is recognized that the second sec</u>

businessperson's right to identify their business contributes to the economic well-being of the community; however, that right should be exercised in a way as to bring benefit to the businessperson without affecting the welfare of the public. In general, this City takes the view that signs should be scaled to the building and property frontage to which the sign is related. The purpose of these regulations is to accomplish the following:

- 1. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage;
- 2. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or of flimsy materials;
- 3. Provide consistent sign design standards;
- <u>4.</u> Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the City; and
- 5. Enable the fair and consistent enforcement of these sign regulations.

B. Sign Definitions:

- 1. "Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, or for which no legal owner can be found.
- 2. "Commercial sign" means a sign erected for a business transaction or advertising the exchange of goods and services.
- 3. "Construction sign" means any sign used to identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building, or to announce the character or type of building.
- 4. *"Flashing sign"* means a sign or a portion thereof which changes light intensity or switches on and off in a constant pattern, or contains motion or the optical illusion of motion by use of electrical energy.
- 5. *"Freestanding sign"* means a permanent pole, ground or monument sign attached to the ground and supported by uprights or braces attached to a foundation in the ground and not attached to any building.
- 6. "Permanent sign" means a sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of "temporary sign." Wallmounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of Chapter 17.28.090 MMC.
- 7. "Portable sign" means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported. Portable signs include, but are not limited to, signs designed to be transported by means of wheels, A-frame signs, menu and sandwich board signs, and advertising flags.

- 8. *"Projecting sign"* means any sign, other than a flat wall sign, which is attached to and projects more than twelve inches from a building wall or other structure not specifically designed to support the sign.
- 9. "*Roof sign*" means any sign erected over or on the roof of a building or attached to the wall of a building and extending above the roofline.
- 10. "Sign" means any device, structure, fixture, placard, painted surface, awning, banner or balloon using graphics, lights, symbols and/or written copy designed, used or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, goods or services; provided, that the same is visible from a street, way, sidewalk, or parking area open to the public.
- 11. "Sign area" means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising or identifying message; provided, that individual letters using a wall as the background, without added decoration or change in wall color, shall have a sign area calculated by measuring the smallest rectangle enclosing each letter and totaling the square footage thereof. For double-faced signs, total sign area shall be calculated by measuring only one face.
- 12. "Sign height" means the vertical distance from grade to the highest point of a freestanding sign or any vertical projection thereof, including its supporting columns. Grade shall be determined by taking the average elevation at finished grade for the midpoints of the four sides of the smallest rectangle that will enclose all area which is within a five-foot horizontal radius of the sign and its supporting structure.
- 13. "Temporary sign" means any sign that is intended and designed to be displayed for a limited period of time, including, without limitation, a sign that is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster, banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than twenty-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of Chapter 17.28.090 MMC.

C. General Requirements:

- 1. <u>The construction and placement of all signs shall conform to the International Building</u> <u>Code and be pre-approved by the city council and/or staff.</u>
- 2. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench or any type of street furniture, or otherwise create a hazard.

- 3. For signs that meet the definition of more than one sign type, the public works director shall determine which standards apply based on the sign's function, location and orientation.
- 4. Prohibited Signs. The following signs are prohibited:
 - a. Signs or sign structures which by coloring, shape, design or location resemble or conflict with traffic control signs or devices;
 - <u>b.</u> Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the Director of Public Works or the city building official:

Director of Public Works or the city building official;

- c. Signs attached to public property without permission of the government agency owning the same, including, without limitation, trees, utility poles, street lights;
- 5. <u>Maintenance</u>. All signs and components thereof must be maintained in good repair and in a safe, neat, clean and attractive condition.
- 6. <u>Abandoned Signs—Hazardous Signs</u>. Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within six months of abandonment. Signs which constitute a safety hazard to the public shall be removed or made safe immediately.
- 7. Sign Enforcement—Violations—Penalties.
 - a. <u>Enforcement</u>. The public works director, or the public works director's designee, shall have authority to administer, implement, and enforce this chapter. The public works director or public works director's designee may promulgate regulations consistent with this chapter. The authority of the public works director is not exclusive and is concurrent to another's lawful authority to enforce the provisions of this chapter, including, without limitation, the jurisdiction of the McCleary police department to enforce provisions of this code.
 - b. *Violations*. It is a violation of this chapter to fail to comply with or to be in conflict with any provision of this chapter. It shall be a separate offense for each and every day during which any violation of any of the provisions of this chapter is committed, continued, or permitted.
 - c. Penalties.
 - A. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be subject to the provisions of Chapter 1.20 <u>MMC</u>.
 - B. Any violation of any provision of this chapter constitutes a public nuisance which the City can abate by an action in county superior court. The costs of such action shall be taxed against the violator.
 - C. Penalty and enforcement provisions provided in this chapter are not exclusive, and the City may pursue any remedy or relief it deems appropriate.

- d. <u>Removal.</u> Signs not meeting the requirements of this chapter are subject to removal by the City. This includes the following:
 - A. Signs located on public property that create an immediate threat to the safety of the public.
 - B. Signs that create an imminent danger to persons or property.
 - C. Signs placed in the public right-of-way that do not meet the requirements of this chapter.
 - D. Unauthorized signs placed on any utility pole, public property, public building or public structure, or on any traffic sign.
 - E. Temporary signs placed within the public right-of-way that may otherwise be allowed by this chapter, but which are in a degraded or dilapidated state due to age, exposure to the elements, or damage may be removed by the City. This includes signs that are illegible.
 - F. The public works director or his/her designee will attempt to contact the owner after removal of signs. The owner may contact the public works director or his/her designee to retrieve any signs removed. Failure to retrieve within fourteen days from date of removal will result in disposal by the City. The City shall not be responsible for damages or loss incurred during the removal or storage of any sign.
- 7. <u>Sign Owner Responsibility</u>. By installing any sign in the City of McCleary, the owner of the sign acknowledges responsibility for compliance with this chapter, for the safety of the sign, and for any and all damage to property or injury to persons resulting from the sign.
- 8. <u>Compliance</u>. All existing signs within the City which are not in compliance with the requirements of this chapter upon the effective date of the ordinance codified in this title are considered to be nonconforming signs. Nonconforming signs shall be made to conform with the requirements of this section under the following circumstances:
 - a. Signs which do not conform with the requirements of this section shall be removed within sixty days of the effective date of this title or, if located within an area being annexed to the City, within sixty days of the effective date of annexation, whichever is later.
 - b. Whenever any modification is to be made to the structure, frame or support of any nonconforming sign, such nonconforming sign shall be removed or brought into conformance with this title. Adding a new sign face to a nonconforming sign which does not modify the shape, size or any structural element of a nonconforming sign shall be permitted.
 - c. Whenever the facade of a building upon which is located a nonconforming wall sign or nonconforming projecting sign is remodeled or renovated, all nonconforming wall signs located on the portion of the facade being renovated shall be brought into conformance with this chapter.
- D. Sign Type Standards:

- 1. *Freestanding Signs*. The following regulations shall apply to all freestanding signs:
 - a. Location. Freestanding signs shall not be located within the public right-of-way.
 - b. Identification Signs for Residential Development. Each entrance to a subdivision development or manufactured home park may have a freestanding or fence-mounted identification sign up to thirty-two square feet in area. The height of such signs shall not exceed four feet.
 - c. Freestanding signs must have a substantial base that is at least half as wide and thick (measured horizontally) as the sign itself.
- 2. <u>Portable Signs. The following regulations shall apply to all portable signs:</u>
 - a. Portable signs shall not exceed nine square feet per side.
 - b. No more than one portable sign may be displayed per entity.
 - c. Signs shall be located directly in front of the sponsoring entity during business hours only.
 - d. Signs shall be located so as not to create a traffic safety hazard by obstructing the vision of motorists on private property or public right-of-way.
 - e. Owners of such signs shall assume liability for damage or injury resulting from their use and shall provide the City with an appropriate legal document satisfactory to the City attorney holding the City harmless and indemnifying the City for such resulting loss and/or injury.
 - f. Portable signs shall be nonilluminated.
- 3. <u>Projecting Signs. The following regulations shall apply to all projecting signs:</u>
 - a. Projecting signs shall not extend more than five feet above the highest exterior wall of the building it serves or, if mounted on the roof ridge line more than two feet above that ridge line.
 - b. Projecting signs shall not be located directly over windows or in conflict with other signs or architectural features of the building as determined by the City.
 - c. Projecting signs in the C-1 and C-2 districts and authorized by the City shall extend no closer than two feet to the edge of the roadway and provide a minimum clearance of ten feet from the highest existing grade.
- 4. <u>Temporary signs</u>. The following regulations shall apply to all temporary signs:
 - a. All temporary signs shall be removed within thirty days following the event or activity being promoted.
 - b. <u>Temporary Signs in Public Right-of-Way.</u>
 - A. Temporary signs may be located in the right-of-way when they conform with the requirements of this chapter. Temporary signs shall not be located in right-of-way adjacent to public property owned or under the control of a unit of federal, state or local government, or special purpose district such as a school, park, public utility,

port or library district, unless otherwise approved by the unit of government or special purpose district.

- B. <u>All temporary signs shall be placed in a manner that is safe for all users of public right-of-way.</u> Temporary signs shall not block access to structures or parked cars, and shall not block vehicular sight distance at corners or intersections.
- C. <u>Temporary signs shall only be placed in the right-of-way if the sign owner has</u> permission from the owner of the abutting property.
- D. <u>Temporary signs located in City maintained rights-of-way are subject to temporary</u> removal by the City upon the need to conduct work.

<u>SECTION III</u>: 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 phrase had been declared invalid or unconstitutional.

<u>SECTION IV</u>: This Ordinance shall take effect upon the fifth day following the date of publication.

PASSED THIS	DAY OF	, 2024,	, by the City	Council of the C	ity of
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McCleary, and signed in approval therewith this , day of , 2024.

CITY OF McCLEARY:

CHRIS MILLER, Mayor

ATTEST:

JENNA AMSBURY, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney



McCleary Regular City Council Meeting

Wednesday, May 08, 2024 – 6:30 PM McCleary Community Center & Zoom Virtual Meeting

Minutes

Call to Order/Flag Salute/Roll Call

Meeting called to order at 6:30pm PRESENT Councilmember Brycen Huff Councilmember Max Ross Councilmember Andrea Dahl

ABSENT

Councilmember Jacob Simmons Councilmember Keith Klimek

Motion made by Councilmember Ross, Seconded by Councilmember Huff to excuse Councilmembers Simmons and Klimek.

Voting Yea: Councilmember Huff, Councilmember Ross, Councilmember Dahl

Agenda Modifications/Acceptance

Motion made by Councilmember Dahl, Seconded by Councilmember Ross to accept the agenda. Voting Yea: Councilmember Huff, Councilmember Ross, Councilmember Dahl

Public Hearing

1. Signs Ordinance

Public Hearing for the Signs Ordinance opened at 6:32pm and will be continued to the May 22nd Council Meeting. Clerk-Treasurer Jenna Amsbury met with the Policy committee and they want to remove the language about limiting signs on private property and add language about allowing temporary signs in the right-of-way. Also the policy was updated to meet current law.

2. Public Records Ordinance

Public Hearing for the Public Records Ordinance opened at 6:34pm. There were no public comments. Jenna Amsbury said this hasn't been updated in 20 years, so this Ordinance was also updated to reflect current laws. Public Hearing closed at 6:35pm.

Public Comment - Agenda Items Only

No Public Comment

Consent Agenda

Motion made by Councilmember Ross, Seconded by Councilmember Dahl to accept the Consent Agenda. Voting Yea: Councilmember Huff, Councilmember Ross, Councilmember Dahl

- 3. Meeting Minutes March 13, 2024
- 4. Meeting Minutes April 24, 2024
- 5. Accounts Payable April 16-30, 2024 Ck Numbers 53268-53299 including EFT's Totaling \$64,384.94

Updates

Item 4.

6. Staff Reports - Light & Power, Water/Wastewater, Police, Public Works Director, Fire, Public Works, Finance

Councilmember Dahl asked Police Chief Patrick to expand on his Staff Report. Patrick explained the department training required by the State. The certificate in the packet shows that City of McCleary is compliant with state law.

Councilmember Huff asked for an update on the chiller purchase. Public Works Director Chad Bedlington said we are looking at financing options. Bedlington said he will bring this back to council in about a month.

7. Committee Updates

Councilmember Dahl said the Finance Committee will be meeting on the 22nd when Councilmember Simmons is back. Jenna Amsbury said the Annual Report is due by May 29th and she would like Finance Committee to review it before it comes to council so they are up to date with everything.

New Business

No New Business.

Old Business

8. Comprehensive Plan

Chad Bedlington explained the background of the work on the Comprehensive Plan. He talked about the 20-year goals. They had public participation and created an advisory committee in 2022 and 2023. Council was briefed on March 13th and a public hearing was held on April 10th. They had a SEPA review and there was no public comment received. Bedlington is asking for the Comprehensive Plan to be formally adopted by Council. There are some code changes that will need to be made on this, and also some zoning changes.

Councilmember Ross wanted to clarify that the Comprehensive Plan doesn't change any zoning, it outlines zoning options. Chad Bedlington said that is correct. Zoning code changes will come in a separate ordinance.

9. Grays Harbor Transit Discussion

Mayor Miller said the Grays Harbor Transit is willing to get a grant to acquire the Transit Station from us. They are willing to work with the City to make improvements. Councilmember Huff is open to conversation to discuss this further. City Attorney Chris Coker said he's always reluctant about selling property and asked if leasing would be an option with Grays Harbor Transit.

Ordinances and Resolutions

Councilmember Dahl asked to wait on adopting any of the Ordinances and Resolutions tonight until they have the chance to talk with Councilmembers Simmons and Klimek. Mayor Miller stated all items will be moved to the May 22nd meeting.

- 10. Public Records Ordinance
- 11. Comprehensive Plan Ordinance
- 12. Camera Policy Resolution

Public Comment - City Business Only

Americans with Disabilities Act (ADA) Accommodation is Provided Upon Request. The City of McCleary is an equal opportunity provider and employer. La ciudad de McCleary as un proveedor de igualdad de oportunidades y el empleador. Kyle Comer asked for more information on the solar grant. Chad Bedlington said he can follow up with him and share the application with him because it has all the details on it.

Executive Session

No Executive Session

Council Comments

Councilmember Huff said he will try to attend virtually the Chehalis Basin Meeting next month. Huff would also like to wish everyone a Happy Mother's Day.

Mayor Comments

None

Adjourn

Motion made by Councilmember Ross, Seconded by Councilmember Huff to adjourn the meeting at 6:49pm. Voting Yea: Councilmember Huff, Councilmember Ross, Councilmember Dahl

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CITY COUNCIL AGENDA ITEM COVER SHEET

FROM:	Chad Bedlington, Director of Public Works		
DATE:	May 22, 2024		
AGENDA ITEM TITLE:	Amendment 1 to Consultant Agreement – SCJ Alliance		
111122.	Development Code Updates		

SUMMARY

The City has moved through the process of updating its Comprehensive Plan which is nearing approval. Once the Comprehensive Plan is approved, there is a second phase to this project that requires an update to the current Development Code. Staff is requesting an amendment to its existing contract with SCJ Alliance to perform the needed code updates. Scope of work and fee summary is attached for your reference.

FISCAL IMPACT

Anticipated not to exceed fee for the defined tasks is \$18,500. Funding will be from the utility funds, streets, and a portion from current expense.

RECOMMENDATION/ACTION REQUESTED

Approve the request to proceed with the scope of work as defined in the attached amendment 1.



Scope of Work Comprehensive Plan Update Amendment 1: Development Code Updates McCleary, WA

- Prepared For: Chad Bedlington, Public Works Director
- Prepared By: Cristina Haworth, AICP

Date Prepared: May 3, 2024

Introduction:

The City of McCleary's comprehensive plan and map, which are currently in final review for adoption by City Council, included three new zoning districts to better manage growth over the next 20 years. These three zones, Master Plan (MP) District, Infill Housing Overlay (IHO) District, and Public/Institutional (P/I) District need standards written in the development code (Title 17) to implement the vision of the comprehensive plan. The City is also in need of a general Title 17 code cleanup to eliminate redundancies and ensure consistency throughout the development regulations. This amendment accomplishes those updates and is divided into three parts:

- 1. Develop the Master Plan District code language.
- 2. Develop the Infill Housing Overlay District and Public/Institutional District code language.
- 3. Other minor changes throughout Title 17 needed for code consistency, including revised definitions, subdivision regulations, non-conforming uses, and variances and appeals.

These additions to the Development Regulations will be consistent with the feedback received from the community during the recent public outreach process and in the guiding principles in Chapter 3 of the updated comprehensive plan.

This scope of work is limited to drafting the code language, submitting that text to staff for review and revision, and finalizing that language for staff to take through the adoption process with City Council. Completing environmental (SEPA) review, filing the Notice of Intent to Adopt with the Department of Commerce, preparing ordinances and hearing packets, and attending City Council are not included in the scope of work.

Phase 07: Development Code Updates

Task 1 Master Plan District Code Language

SCJ proposes to allow development in the Master Plan (MP) District subject to a Development Agreement, consistent with Washington State's allowances in state law (RCW 36.70B.210 and WAC 365-196-845), which documents a variety of standards, land uses, phasing, and vested



rights negotiated between the City and a private property owner or their developer. The new code language will also address the process for amendments and termination of the development agreement by either the developer or the City. This phase includes front-end research by SCJ, code drafting, one set of revisions based on review comments provided by the client, and delivery of the final language for consideration by City Council.

Deliverables:

- 1. Draft text of new code for Master Plan (MP) District
- 2. Final text of MP District

Phase 07 Task 01 Fee Estimate: \$6,500 Time & Materials

Task 2 Infill Housing Overlay and Public/Institutional Districts

The Infill Housing Overlay (IHO) is a district that applies to existing single-family residential homes within the core downtown area of McCleary as depicted on the preferred land use maps. A number of these properties have significant opportunities for additional housing developments, either on adjacent vacant lots or on larger properties that already have a dwelling unit. The new code will be written to permit all principal, accessory, and conditional uses in the underlying zone(s) to remain while allowing context-sensitive accessory dwelling units (ADUs) and "missing middle" housing types that keep with the scale of existing residential development (e.g. duplexes, townhomes, condominiums) to be built when code conditions are satisfied. This phase assumes modifications to existing Chapters in Title 17 to define and enable the zone, with a stand-alone chapter for standards IHO that only applies to those properties within the overlay. This allows the overlay boundary to change over time without requiring additional code text amendments.

The Public/Institutional District was established solely for city-owned and other public and/or institutional uses, including City Hall, McCleary School, the Community Center, and the cemetery. The code will recognize the variety and unique characteristics of these uses and will



strive for flexible development standards while emphasizing transparency and fairness with other similar projects in the City.

Deliverables:

- 1. Draft text of new code for Infill Housing Overlay (IHO) and Public/Institutional (P/I) Districts
- 2. Final text of IHO and P/I Districts

Phase 07 Task 02 Fee Estimate: \$12,000 Time & Materials

Task 3 Other Updates to Title 17

There are chapters where potentially relevant revisions might be needed, including:

- Definitions: Certain definitions related to the MP, IHO, and I/P Districts.
- Subdivision Regulations: If the IHO aims to encourage smaller lots or different lot configurations, sections within Subdivision Regulations might require updates.
- Non-Conforming Uses: Depending on how the new zoning changes treat existing uses that become non-conforming, relevant sections may need revision.
- Variances and Appeals: Sections outlining variance procedures could need updates if new standards in the IHO or MP Districts create grounds for variance requests.
- Elimination of R3 Zone: Eliminating the R3 District may have created inconsistencies, conflicts, or omissions in Title 17 that should be addressed. Manufactured homes or manufactured home parks should be allowed in one or more other zoning districts.

Deliverables:

- 1. Code updates recommendations memo and fee estimate
- 2. Draft text of updated code
- 3. Final text of updated code

Phase 07 Task 03 Fee Estimate: \$TBD Time & Materials

Conditions and Assumptions

- 1. SCJ Alliance is flexible in completing this scope of work. Minor changes and adjustments can be made upon request received in writing. Changes may require an adjustment to the schedule and/or budget allocations.
- This scope of work is limited to drafting the code language, submitting that text to staff for review and revision, and finalizing that language for staff to take through the adoption process with City Council. Completing environmental (SEPA) review, filing the Notice of Intent to Adopt with the Department of Commerce, preparing ordinances and hearing packets, and attending City Council are not included in the scope of work.
- The budgets provided are estimates to complete the work. Unexpected project changes or work outside the scope may result in the need for additional funding to complete the work. To the best of our ability, SCJ Alliance will notify the City's project manager as soon as the need for budget modification has been identified.



Budget and Schedule

This Amendment No. 1 Tasks 01 and 02 scope of work will be completed on a time and materials basis, not to exceed **\$18,500**. Task 03 will be scoped separately and work will commence when the scope and associated budget are authorized by the client.

Task 01 Deliverable 01 (draft MP code amendments) will be completed within four weeks of notice to proceed. Task 02 Deliverable 02 (final MP code amendments) will be completed two weeks after receiving review comments from the City.

Task 02 Deliverable 01 (draft IHO and P/I code amendments) will be completed eight (8) weeks after completion of Task 01. Task 02 Deliverable 02 (final IHO and P/I code amendments) will be completed two weeks after receiving review comments from the City.

Task 03 deliverables will be scheduled upon authorization and notice to proceed.

All work will be completed no later than December 31, 2024.



CITY COUNCIL AGENDA ITEM COVER SHEET

FROM:	Lori Ann Hanson, Utility Accounts Manager			
DATE:	May 21, 2024			
AGENDA ITEM TITLE:	Washington Families Clean Energy Credits Grant Program			

SUMMARY

This program will offer bill credits of \$200.00 per household to eligible residential customers. Once this contract is approved, I can start uploading the requested data file and market this program to our residents. A final draft is forthcoming.

FISCAL IMPACT

None

RECOMMENDATION/ACTION REQUESTED

for council approval of final contract when received



Grant Agreement with

Please enter the Entity/Business Name of Grantee Organization

through

Energy Division

Grant Number:

Please enter Grant Number

For

Washington Families Clean Energy Credits

Dated: Please enter start date of grant



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ATTACHMENT A: SCOPE OF WORK ERROR! BOOKMARK NOT DEFINED.			
ATTACHMENT B: BUDGET			



Face Sheet

Grant Number: <Insert Number>

Energy Division
Washington Families Clean Energy Credits

1. Grantee <insert legal="" name=""> <insert address="" mailing=""> <insert address="" physical=""> <insert location=""> 3. Grantee Representative <insert name=""> <insert title=""></insert></insert></insert></insert></insert></insert>		2. Grantee Doing Business As (as applicable) <insert dba="" name=""> <insert address="" dba="" mailing=""> <insert address="" dba="" physical=""> <insert dba="" location=""> 4. COMMERCE Representative <insert name=""> <insert title=""> <insert address="" physical=""> <insert address="" physical=""> <insert name=""> <insert address="" physical=""> <insert address="" physical=""> <insert address="" physical=""> <insert address="" physical=""></insert></insert></insert></insert></insert></insert></insert></insert></insert></insert></insert></insert></insert>			
<pre><insert phone=""> <insert e-mail=""> 5. Grant Amount <insert \$="" total=""></insert></insert></insert></pre>	6. Funding Source Federal:	<insert e-mail=""> 7. Start Date 8.</insert>		8. End Date <insert date=""></insert>	
9. Federal Funds (as applicat N/A	ble) Federal Agen N/A	су:	ALN N/A		
10. Tax ID # <insert number=""></insert>	11. SWV # <insert number=""></insert>	12. UBI # <insert number=""></insert>		13. UE N/A	1#
14. Grant Purpose The Washington Families Clean Energy Credits Grant Program dedicates \$150 million to assist low- to moderate-income households with the clean energy transition. This initiative will offer bill credits of \$200 per household to eligible residential customers through their electric utility provider.					
COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget					
FOR GRANTEE		FOR COMMERCE			
<mark><insert name=""></insert></mark> , <mark><insert title=""></insert></mark>		Cheryl Hardee, Energy Division Deputy Director			
Date		Date			
		APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE			



Special Terms and Conditions

1. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

2. ACKNOWLEDGEMENT OF CLIMATE COMMITMENT ACT FUNDING

If this Agreement is funded in whole or in part by the Climate Commitment Act, Grantee agrees that any website, announcement, press release, and/or publication (written, visual, or sound) used for media-related activities, publicity, and public outreach issued by or on behalf of Grantee which reference programs or projects funded in whole or in part with Washington's Climate Commitment Act (CCA) funds under this Grant, shall contain the following statement:

"The [PROGRAM NAME / GRANT / ETC.] is supported with funding from Washington's Climate Commitment Act. The CCA supports Washington's climate action efforts by putting cap-and-invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at <u>www.climate.wa.gov.</u>"

The Grantee agrees to ensure coordinated Climate Commitment Act branding on work completed by or on behalf of the Grantee. The CCA logo must be used in the following circumstances, consistent with the branding guidelines posted at <u>CCA brand toolkit</u>, including:

- A. Any project related website or webpage that includes logos from other funding partners;
- B. Any publication materials that include logos from other funding partners;
- **C.** Any on-site signage including pre-during Construction signage and permanent signage at completed project sites; and
- **D.** Any equipment purchased with CCA funding through a generally visible decal.

3. <u>COMPENSATION</u>

COMMERCE shall pay an amount not to exceed \$ for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based on the terms of the Scope of Work and Budget.

EXPENSES

Grantee shall receive reimbursement for administrative costs identified below or as authorized in advance by COMMERCE as reimbursable. Grantees may use up to five percent of their grant funds for administrative costs associated with the disbursement of funds provided by COMMERCE. The maximum amount to be paid to the Grantee for authorized expenses shall not exceed \$ which amount is included in the Grant total above.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE via the Commerce Grants Management System.

The attachments to the invoice request in the Commerce Contract Management System shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number . If expenses



are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The Grantee must invoice for all expenses from the beginning of the Grant through June 30, regardless of the Grant start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

5. SUBGRANTEE DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subgrantees and the portion of Grant funds expended for work performed by subgrantees, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subgrantees. "Subgrantees" shall mean subgrantees of any tier.

6. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee, or agents of either, while performing under the terms of this Grant. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall provide COMMERCE thirty (30) calendar days' advance notice of any



insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date OR a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days' advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subgrants.

Cyber Liability Insurance: The Contractor shall maintain Cyber Liability Insurance. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Contractor and licensed staff employed or under contract to the Contractor. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantee, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under Grant to the Grantee. The state of Washington, its agents, officers, and employees need not be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- **B.** Subgrantees that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the Grantee as beneficiary.

7. FRAUD AND OTHER LOSS REPORTING

Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.



In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A Scope of Work
- Attachment B Budget
- Add any other attachments incorporated by reference from the Face Sheet listed within order of attached.



1. **DEFINITIONS**

As used throughout this Grant, the following terms shall have the meaning set forth below:

- **A.** "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- **B.** "COMMERCE" shall mean the Washington Department of Commerce.
- **C.** "Grant" or "Agreement" or "Contract" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Grant shall be the same as delivery of an original.
- **D.** "Grantee" or "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- **F.** "State" shall mean the state of Washington.
- **G.** "Subgrantee/subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee" and "subcontractor" mean subgrantee/subcontractor(s) in any tier.
- **H.** "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- I. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or perunit basis with contractual penalties if the entity fails to meet program performance standards.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

If the Grantee chooses to receive assistance from COMMERCE and/or its contractors or subcontractors in identifying eligible customer households, COMMERCE requests that the Grantee commit to the following conditions regarding the data provided to COMMERCE and/or its contractors or sub-contractors:



- Provide access to customer data required for determining household Program eligibility in a structured format as specified by COMMERCE.
- Provide notification of changes to customer information that could result in disqualification from Program eligibility, including if the customer account has already been awarded a credit by the Grantee.
- Verify that credits allocated under the Program have been applied to eligible customer accounts.
- Ensure the privacy and security of customer information both at rest and in transit.
- Ensure the accuracy of all data to the best knowledge of the Grantee.
- Meet the foregoing requirements at no additional cost.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by COMMERCE.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. <u>AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also</u> referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

8. <u>ATTORNEYS' FEES</u>

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys' fees and costs.

9. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
 - iii. All Personal Information in the possession of the Grantee that may not be disclosed under state or federal law.
- B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE



or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

10. CONFLICT OF INTEREST

Grantee must maintain and comply with written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. Grantee must comply with the following minimum requirements:

- A. No employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Grantee may neither solicit nor accept gratuities, favors, or anything of monetary value from Grantees or parties to subcontracts and must comply with RCW 39.26.020. However, Grantee may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Grantee.
- **B.** If the Grantee has a parent, affiliate, or subsidiary organization that is not a state, local government, or federally recognized tribe, the Grantee must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Grantee is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

11. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.



The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

12. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Grant number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

13. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant or agreement, for the same services or expenses.

14. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

15. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the Grant. "Claim" as used in this Grant, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee or its employees.

The Grantee's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Grantee,



The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

16. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent Grantee relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

17. INDUSTRIAL INSURANCE COVERAGE

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

18. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

19. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

20. LIMITATION OF AUTHORITY

Only the Authorized Representative or the Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Grant is not effective or binding unless made in writing and signed by the Authorized Representative.

21. NONDISCRIMINATION

A. Nondiscrimination Requirement. During the performance of this Agreement, the GRANTEE, including any subcontractor, shall comply with all federal, state, and local nondiscrimination laws, regulations and policies, this shall include but not be limited to the following: GRANTEE, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, GRANTEE, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which GRANTEE, or subcontractor, has a collective bargaining or other agreement.

The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Agreement.

B. Obligation to Cooperate. GRANTEE, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that GRANTEE, including



any subcontractor, has engaged in discrimination prohibited by this Agreement pursuant to RCW 49.60.530(3).

C. Default. Notwithstanding any provision to the contrary, COMMERCE may suspend GRANTEE, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMERCE receives notification that GRANTEE, including any subcontractor, is cooperating with the investigating state agency. In the event GRANTEE, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMERCE may terminate this Agreement in whole or in part, and GRANTEE, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. GRANTEE or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

D. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Agreement termination or suspension for engaging in discrimination, GRANTEE, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time , which damages are distinct from any penalties imposed under Chapter 49.60, RCW. GRANTEE may also be required to repay grant funds pursuant to Section 25 (Recapture) of the General Terms & Conditions if the Agreement is terminated based on a violation of the nondiscrimination requirement. COMMERCE shall have the right to deduct from any monies due to GRANTEE or subcontractor, or that thereafter become due, an amount for damages GRANTEE or subcontractor will owe COMMERCE for default under this provision.

22. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- **B.** Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - **ii.** A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
 - **iii.** A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Grantee is not in compliance with this provision.

23. POLITICAL ACTIVITIES

Political activity of Grantee's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.



24. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

25. <u>RECAPTURE</u>

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

26. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

27. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

28. <u>RIGHT OF INSPECTION</u>

The Grantee shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

29. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may suspend or terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

30. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.



While on COMMERCE premises, Grantee, its agents, employees, or subgrantees shall conform in all respects with physical, fire or other security policies or regulations.

32. SUBGRANTING/SUBCONTRACTING

The Grantee may only subgrant/subcontract work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subgranting/subcontracting, the Grantee shall maintain written procedures related to subgranting, as well as copies of all subgrants/subcontract and records related to subgrants/subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subgranting/subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subgranting/subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subgrant/subcontract.

Every subgrant/subcontract shall bind the Subgrantee/Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subgrantee/Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subgrantee/Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subgrant/subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subgrant/subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subgrantee/Subcontractor's performance of the subgrant/subcontract.

33. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

34. <u>TAXES</u>

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

35. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.



36. <u>TERMINATION FOR CONVENIENCE</u>

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

37. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

- A. Stop work under the Grant on the date, and to the extent specified, in the notice;
- **B.** Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;
- **C.** Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants/subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;
- **D.** Settle all outstanding liabilities and all claims arising out of such termination of orders and subgrants/subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to COMMERCE;
- **F.** Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- **G.** Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.



38. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- **A.** Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.
- **B.** The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- **C.** If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- **D.** The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant.
- E. All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subgrantees/Subcontractors.

39. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.



Attachment A: Scope of Work

Final budget language, page 149: Engrossed Substitute Senate Bill 5950

(29) \$150,000,000 of the climate commitment account—state appropriation is provided solely for the department to provide clean energy for Washington families grants for public and private electric utilities to provide bill credits for low-income and moderate-income residential electricity customers to help with the clean energy transition in the amount of \$200 per household, by September 15, 2024. Low and moderate-income is defined as less than 150 percent of area median income.

Utilities must prioritize customers in vulnerable populations in overburdened communities as defined under RCW 70A.02.010, such as those that have participated in the low-income home energy assistance program, utility payment plans, or ratepayer funded assistance programs. Utilities must first prioritize bill credits for customers at or below 80 percent area median income and if funds remain, may expand bill credits for customers up to 150 percent of area median income. Utilities may qualify customers through self-attestation.

Utilities may, but are not required to, work with community action agencies to administer these funds. Each utility shall disburse funds directly to customer accounts and adhere to program communications guidelines provided by the department. Utilities may use up to five percent of their grant funds for administrative costs associated with the disbursement of funds provided in this subsection.

If Initiative Measure No. 2117 is approved in the 2024 general election, upon the effective date of the measure, funds from the consolidated climate account may not be used for the purposes in this subsection.

Tasks and Deliverables

<u>Task 1</u>: Grantees will respond to the "How will your utility find eligible households?" Scoping Question Survey

Deliverable 1.1: Grantees will respond to the following questions in a Smartsheet survey provided by COMMERCE. This survey outlines some aspects of how a Grantee will find eligible households for the purposes of disbursing Program credits.

1. "How does your utility plan to find eligible households? Select all that apply.

Note: Customers who are currently enrolled in or have been enrolled in a low-income energy assistance program within the past two years (as of January 1, 2022) qualify as an "enrolled" customer.

Utility will determine if a customer is:

Enrolled in a low-income energy assistance program, utility payment plan, or other ratepayer assistance program

Enrolled in means tested federal low-income assistance program

Eligible based on online customer self-attestation form

Eligible based on self-attestation assisted by a customer service representative

Page 19 of 22



Eligible based on self-attestation survey Eligible based on working with programs offered by a Community Action Agency Eligible through the use of 3rd party financial data Other method - Please specify below

 If you selected that your utility would work with a Community Action Agency above, please select the CAA that your utility would be working with.
 <Multiple answers selectable>

Other method
 Please detail what method(s) your utility is planning to use.
 <detail method(s), if applicable>

4. Request assistance from Commerce's vendor:

My utility requests assistance from Commerce's vendor, Promise Pay to help my utility's eligibility and self-attestation program. <Yes, No, or Undecided>

5. If you answered Yes or Unsure to the prior question, please fill out this Typeform (link forthcoming) from Promise Pay to enter contact details for certain positions in your organization.

6. Does your utility anticipate any challenges implementing this program? <detail challenges, if applicable>

7. Any additional questions <detail additional questions, if applicable>

Task 2: Expenditure Reporting

(1) All Grantees are required to submit Project and Expenditure Reports with each invoice submitted for payment.

Deliverable 2.1: Project and Expenditure Reports with each invoice submitted for payment.

- Grantees must submit a detailed expenditure report of all expenses (totaling the requested reimbursement amount) and backup invoice documentation. The expenditure report/ledger must include:
 - Adopted budgets
 - Dates of expenditures
 - Expense categories
 - Use of administrative funding*

*Administrative funding may be spent on:

- Labor costs to apply bill credits or finding eligible households,
- Marketing and outreach costs (including printing signs, bill inserts, flyers, etc.),
- Communications costs (including translation services, community outreach, radio/paper/digital advertisement buys),
- Creation, development, implementation and/or maintenance of a self-attestation portal.



(2) Documentation of subawards, contracts, grants, loans, transfers, and direct payments.

Deliverable 2.2:

- Each Grantee shall also provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and direct payments made by the recipient that are greater than \$50,000.
- (3) If Grantees find that they do not need to spend all their administrative allocation (up to 5% of total grant allocation) on administrative costs, the utility may reallocate administrative funds to provide additional bill credits to eligible customer households. All funds must be spent by September 15, 2024.

Deliverable 2.3: If funds are returned to COMMERCE, meant for the express purpose of redistribution to other utilities participating in the Washington Families Clean Energy Credits Grant Program, Grantees must record the dollar value of the returned allocation.

Task 3: Record of qualifying accounts and amount disbursed

- (1) All grantees are required to retain and provide to COMMERCE a record of customer accounts that received the bill credit under the Program. This record must include sufficient information for potential programmatic review by a third-party audit:
 - a. The account number of the household that received the bill credit from the Grantee.
 - b. The date a bill credit was applied to a customer's account number by the Grantee.
 - c. The dollar amount applied to individual customer accounts by the Grantee.
 - d. The total dollar amount applied to all customer accounts by the Grantee.
 - e. The total dollar amount the Grantee received from COMMERCE.
 - f. The date that the Grantee received funding from COMMERCE.

Deliverable 3.1: All grantees are required to retain and provide to COMMERCE a record of customer accounts that received the bill credit under the Program as detailed in Task 3(1)(a) through (f). This record must include sufficient information for potential programmatic review by a third-party audit:

Task 4: Household Impacts

(1) All Grantees are required to submit to COMMERCE an aggregated estimate of households served

Deliverable 4.1: Total number of households served.

(2) All grantees are required to submit to COMMERCE an estimate of households served that are within specific income brackets.

Deliverable 4.2: The estimated number of households served by the Washington Families Clean Energy Credit Grant Program within the following area median income (AMI) brackets.

- a. Low-income (up to 80% AMI)
- b. Moderate-income (up to 150% AMI)



Attachment B: Budget

Item	Description	Amount
1	Total dollar value of the grants to administer a bill credit to low- to moderate- income customer accounts.	\$XX.XX
2	Total dollar value of administrative costs used to support the goals of the Washington Families Clean Energy Credits Grant Program.	\$XX.XX
	Total Grant Amount	\$XX.XX

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MCCLEARY REPEALING AND REPLACING MCCLEARY MUNICIPAL CODE SECTION 17.28.090 "SIGNS"; ADOPTING NEW RULES AND REGULATIONS GOVERNING SIGNS IN THE CITY OF MCCLEARY.

RECITALS:

WHEREAS, United States Supreme Court decisions, specifically *Reed v. Gilbert*, have changed the manner in which signs may be regulated; and

WHEREAS, City of McCleary staff is intent on keeping the Sign Code within the Municipal Code compliant with all Federal and State statutes and court decisions; and

WHEREAS, City of McCleary staff determined that the manner in which signs are regulated in the City of McCleary may be more easily and effectively accomplished by categorizing signs by their physical appearance rather than message; and

WHEREAS, the City Council held a public hearing on ______ to consider this Ordinance; and

WHEREAS, the City finds that repealing and replacing MMC Section 17.28.090 with the proposed sign verbiage will ensure the City's Municipal Code is aligned with the Supreme Court decision and will make the administration of the Sign Code more simple and equitable for City staff, citizens, and business owners alike;

NOW, THEREFORE, the City Council of the City of McCleary, Washington do ordain as follows:

SECTION I: MMC Section 17.28.090 titled "Signs", last amended by Ordinance 749 sec. I, 2008, is repealed in its entirety.

<u>SECTION II</u>: MMC Section 17.28.090 titled "Temporary and Special Signs" is hereby added to read as follows:

17.28.090 Temporary and Special Signs

<u>A.</u> <u>Scope and Purpose: This chapter establishes regulations governing the installation, alteration, relocation, maintenance, use and removal of all signs in the City. It is recognized that the second sec</u>

businessperson's right to identify their business contributes to the economic well-being of the community; however, that right should be exercised in a way as to bring benefit to the businessperson without affecting the welfare of the public. In general, this City takes the view that signs should be scaled to the building and property frontage to which the sign is related. The purpose of these regulations is to accomplish the following:

- 1. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage;
- 2. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or of flimsy materials;
- 3. Provide consistent sign design standards;
- <u>4.</u> <u>Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the City; and</u>
- 5. Enable the fair and consistent enforcement of these sign regulations.

B. Sign Definitions:

- 1. "Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, or for which no legal owner can be found.
- 2. "Commercial sign" means a sign erected for a business transaction or advertising the exchange of goods and services.
- 3. "Construction sign" means any sign used to identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building, or to announce the character or type of building.
- 4. *"Flashing sign"* means a sign or a portion thereof which changes light intensity or switches on and off in a constant pattern, or contains motion or the optical illusion of motion by use of electrical energy.
- 5. *"Freestanding sign"* means a permanent pole, ground or monument sign attached to the ground and supported by uprights or braces attached to a foundation in the ground and not attached to any building.
- 6. "Permanent sign" means a sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of "temporary sign." Wallmounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of Chapter 17.28.090 MMC.
- 7. "Portable sign" means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported. Portable signs include, but are not limited to, signs designed to be transported by means of wheels, A-frame signs, menu and sandwich board signs, and advertising flags.

- 8. *"Projecting sign"* means any sign, other than a flat wall sign, which is attached to and projects more than twelve inches from a building wall or other structure not specifically designed to support the sign.
- 9. "*Roof sign*" means any sign erected over or on the roof of a building or attached to the wall of a building and extending above the roofline.
- 10. "Sign" means any device, structure, fixture, placard, painted surface, awning, banner or balloon using graphics, lights, symbols and/or written copy designed, used or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, goods or services; provided, that the same is visible from a street, way, sidewalk, or parking area open to the public.
- 11. "Sign area" means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising or identifying message; provided, that individual letters using a wall as the background, without added decoration or change in wall color, shall have a sign area calculated by measuring the smallest rectangle enclosing each letter and totaling the square footage thereof. For double-faced signs, total sign area shall be calculated by measuring only one face.
- 12. "Sign height" means the vertical distance from grade to the highest point of a freestanding sign or any vertical projection thereof, including its supporting columns. Grade shall be determined by taking the average elevation at finished grade for the midpoints of the four sides of the smallest rectangle that will enclose all area which is within a five-foot horizontal radius of the sign and its supporting structure.
- 13. "Temporary sign" means any sign that is intended and designed to be displayed for a limited period of time, including, without limitation, a sign that is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster, banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than twenty-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of Chapter 17.28.090 MMC.

C. General Requirements:

- 1. The construction and placement of all signs shall conform to the International Building Code and be pre-approved by the city council and/or staff.
- 2. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench or any type of street furniture, or otherwise create a hazard.

- 3. For signs that meet the definition of more than one sign type, the public works director shall determine which standards apply based on the sign's function, location and orientation.
- 4. Prohibited Signs. The following signs are prohibited:
 - a. Signs or sign structures which by coloring, shape, design or location resemble or conflict with traffic control signs or devices;
 - <u>b.</u> Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the Director of Public Works or the city building official:

Director of Public Works or the city building official;

- c. Signs attached to public property without permission of the government agency owning the same, including, without limitation, trees, utility poles, street lights;
- 5. <u>Maintenance</u>. All signs and components thereof must be maintained in good repair and in a safe, neat, clean and attractive condition.
- 6. <u>Abandoned Signs—Hazardous Signs</u>. Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within six months of abandonment. Signs which constitute a safety hazard to the public shall be removed or made safe immediately.
- 7. Sign Enforcement—Violations—Penalties.
 - a. <u>Enforcement</u>. The public works director, or the public works director's designee, shall have authority to administer, implement, and enforce this chapter. The public works director or public works director's designee may promulgate regulations consistent with this chapter. The authority of the public works director is not exclusive and is concurrent to another's lawful authority to enforce the provisions of this chapter, including, without limitation, the jurisdiction of the McCleary police department to enforce provisions of this code.
 - b. *Violations*. It is a violation of this chapter to fail to comply with or to be in conflict with any provision of this chapter. It shall be a separate offense for each and every day during which any violation of any of the provisions of this chapter is committed, continued, or permitted.
 - c. Penalties.
 - A. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be subject to the provisions of Chapter 1.20 <u>MMC</u>.
 - B. Any violation of any provision of this chapter constitutes a public nuisance which the City can abate by an action in county superior court. The costs of such action shall be taxed against the violator.
 - C. Penalty and enforcement provisions provided in this chapter are not exclusive, and the City may pursue any remedy or relief it deems appropriate.

- d. <u>Removal.</u> Signs not meeting the requirements of this chapter are subject to removal by the City. This includes the following:
 - <u>A.</u> Signs located on public property that create an immediate threat to the safety of the public.
 - B. Signs that create an imminent danger to persons or property.
 - C. Signs placed in the public right-of-way that do not meet the requirements of this chapter.
 - D. Unauthorized signs placed on any utility pole, public property, public building or public structure, or on any traffic sign.
 - E. Temporary signs placed within the public right-of-way that may otherwise be allowed by this chapter, but which are in a degraded or dilapidated state due to age, exposure to the elements, or damage may be removed by the City. This includes signs that are illegible.
 - F. The public works director or his/her designee will attempt to contact the owner after removal of signs. The owner may contact the public works director or his/her designee to retrieve any signs removed. Failure to retrieve within fourteen days from date of removal will result in disposal by the City. The City shall not be responsible for damages or loss incurred during the removal or storage of any sign.
- 7. <u>Sign Owner Responsibility</u>. By installing any sign in the City of McCleary, the owner of the sign acknowledges responsibility for compliance with this chapter, for the safety of the sign, and for any and all damage to property or injury to persons resulting from the sign.
- 8. <u>Compliance</u>. All existing signs within the City which are not in compliance with the requirements of this chapter upon the effective date of the ordinance codified in this title are considered to be nonconforming signs. Nonconforming signs shall be made to conform with the requirements of this section under the following circumstances:
 - a. Signs which do not conform with the requirements of this section shall be removed within sixty days of the effective date of this title or, if located within an area being annexed to the City, within sixty days of the effective date of annexation, whichever is later.
 - b. Whenever any modification is to be made to the structure, frame or support of any nonconforming sign, such nonconforming sign shall be removed or brought into conformance with this title. Adding a new sign face to a nonconforming sign which does not modify the shape, size or any structural element of a nonconforming sign shall be permitted.
 - c. Whenever the facade of a building upon which is located a nonconforming wall sign or nonconforming projecting sign is remodeled or renovated, all nonconforming wall signs located on the portion of the facade being renovated shall be brought into conformance with this chapter.
- D. Sign Type Standards:

- 1. *Freestanding Signs*. The following regulations shall apply to all freestanding signs:
 - a. Location. Freestanding signs shall not be located within the public right-of-way.
 - b. Identification Signs for Residential Development. Each entrance to a subdivision development or manufactured home park may have a freestanding or fence-mounted identification sign up to thirty-two square feet in area. The height of such signs shall not exceed four feet.
 - c. Freestanding signs must have a substantial base that is at least half as wide and thick (measured horizontally) as the sign itself.
- 2. <u>Portable Signs. The following regulations shall apply to all portable signs:</u>
 - a. Portable signs shall not exceed nine square feet per side.
 - b. No more than one portable sign may be displayed per entity.
 - c. Signs shall be located directly in front of the sponsoring entity during business hours only.
 - d. Signs shall be located so as not to create a traffic safety hazard by obstructing the vision of motorists on private property or public right-of-way.
 - e. Owners of such signs shall assume liability for damage or injury resulting from their use and shall provide the City with an appropriate legal document satisfactory to the City attorney holding the City harmless and indemnifying the City for such resulting loss and/or injury.
 - f. Portable signs shall be nonilluminated.
- 3. <u>Projecting Signs. The following regulations shall apply to all projecting signs:</u>
 - a. Projecting signs shall not extend more than five feet above the highest exterior wall of the building it serves or, if mounted on the roof ridge line more than two feet above that ridge line.
 - b. Projecting signs shall not be located directly over windows or in conflict with other signs or architectural features of the building as determined by the City.
 - c. Projecting signs in the C-1 and C-2 districts and authorized by the City shall extend no closer than two feet to the edge of the roadway and provide a minimum clearance of ten feet from the highest existing grade.
- 4. <u>Temporary signs</u>. The following regulations shall apply to all temporary signs:
 - a. All temporary signs shall be removed within thirty days following the event or activity being promoted.
 - b. <u>Temporary Signs in Public Right-of-Way.</u>
 - A. <u>Temporary signs may be located in the right-of-way when they conform with the</u> requirements of this chapter. Temporary signs shall not be located in right-of-way adjacent to public property owned or under the control of a unit of federal, state or local government, or special purpose district such as a school, park, public utility,

port or library district, unless otherwise approved by the unit of government or special purpose district.

- B. <u>All temporary signs shall be placed in a manner that is safe for all users of public right-of-way.</u> Temporary signs shall not block access to structures or parked cars, and shall not block vehicular sight distance at corners or intersections.
- C. <u>Temporary signs shall only be placed in the right-of-way if the sign owner has</u> permission from the owner of the abutting property.
- D. <u>Temporary signs located in City maintained rights-of-way are subject to temporary</u> removal by the City upon the need to conduct work.

<u>SECTION III</u>: 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 phrase had been declared invalid or unconstitutional.

<u>SECTION IV</u>: This Ordinance shall take effect upon the fifth day following the date of publication.

PASSED THIS	DAY OF	, 2024,	, by the City	Council of the C	ity of
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McCleary, and signed in approval therewith this , day of , 2024.

CITY OF McCLEARY:

CHRIS MILLER, Mayor

ATTEST:

JENNA AMSBURY, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MCCLEARY REPEALING AND REPLACING **MCCLEARY** MUNICIPAL CODE CHAPTER **"PUBLIC** 2.72 **RECORDS**": **ADOPTING** NEW RULES AND **REGULATIONS GOVERNING PUBLIC RECORDS IN** THE CITY OF MCCLEARY.

RECITALS:

WHEREAS, RCW 42.56, Washington's Public Records Act ("Act") allows the public to request public records from the City; and

WHEREAS, pursuant to the Act, the Washington Legislature requires that each local agency shall provide rules of procedure for the guidance of the public in making requests for inspection or copying of public records; and

WHEREAS, pursuant to the Act, a local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of the Act; and

WHEREAS, the State Legislators made revisions to the Public Records Act and the City Council desires to adopt them and modify the City's practices and policies to be consistent with the State law; and

WHEREAS, the City Council held a public hearing on ______ to consider this Ordinance; and

WHEREAS, the City finds that repealing and replacing MMC Chapter 2.72 with the proposed sign verbiage will ensure the City's Municipal Code is aligned with the Supreme Court decision and will make the administration of the Sign Code more simple and equitable for City staff, citizens, and business owners alike;

NOW, THEREFORE, the City Council of the City of McCleary, Washington do ordain as follows:

<u>SECTION I</u>: MMC Chapter 2.72 titled "PUBLIC RECORDS", last amended by Ordinance 646 sec. I, 1997, is repealed and reenacted as shown in Exhibit A.

Item 9.

SECTION II: 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 phrase had been declared invalid or unconstitutional.

<u>SECTION III</u>: This Ordinance shall be published by an approved summary consisting of the title.

<u>SECTION IV</u>: This Ordinance shall take effect upon the fifth day following the date of publication.

PASSED THIS ____ DAY OF _____, 2024, by the City Council of the

City of McCleary, and signed in approval therewith this _____, day of ______, 2024.

CITY OF McCLEARY:

CHRIS MILLER, Mayor

ATTEST:

JENNA AMSBURY, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney

EXHIBIT A

Chapter 2.72

PUBLIC RECORDS REQUESTS

Sections:

- 2.76.010 Authority and purpose.
- 2.76.020 City clerk-treasurer as public records officer –Requesting records.
- 2.76.030 Processing of public records requests.
- 2.76.040 Providing records to requestor.
- 2.76.050 Exemptions.
- 2.76.060 Copying fees.
- 2.76.070 Index of public records Findings and order.
- 2.76.080 Modifications to fees and charges.
- 2.76.090 Denials of Requests for Public Records Internal Administrative Review Judicial Review.

2.76.010 Authority and purpose.

- A. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Act, RCW 42.56.010(3), defines "public record" to include a "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency regardless of physical form or characteristics and specifically excludes records that are not otherwise required to be retained by the agency. RCW 42.56.070(2) requires each agency to set forth " for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.
- B. The purpose of this chapter is to establish the procedures the city of McCleary will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the city of McCleary and establish processes for both requestors and the city of McCleary staff that are designed to best assist members of the public in obtaining such access.
- C. The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the city of McCleary will be guided by the provisions of the Act describing its purposes and interpretation.
- D. The provisions of this chapter shall not apply to court case records and administrative records maintained by the McCleary municipal court in connection to judicial proceedings and records related to the management, supervision, or administration of the court. Access to these records is governed by Washington State Court Rules General Rule 31.1 and case law.

E. The provisions of this chapter shall not be construed to create any additional legal obligations upon the city or an independent cause of action against the city.

2.76.020 City clerk-treasurer as public records officer – Requesting records.

- A. The city clerk-treasurer is hereby designated as the public records officer (PRO) of the city.
- B. All persons designing to inspect or receive a copy of public record of the city may make their request by submitting the form furnished by the clerk-treasurer, in person, by mail, email, or fax; or over the telephone.

2.76.030 Processing of public records requests.

- A. *Prompt Responses*. Responses to requests for public records shall be made promptly and pursuant to guidelines established in Chapter 42.56 RCW.
- B. *Acknowledging Receipt of Requests*. Within 5 business days of receiving a written public record request, not including the date on which the city clerk-treasurer receives the request, the city must acknowledge the request in one of the ways provided in this subsection:
 - 1. Provide the record;
 - 2. Provide an internet address or link on the city's website to the specific records requested, except that if the requester notifies the city that he or she cannot access the records through the internet, then the city will provide access to copies. If copies are requested, provide the copies to the requestor after payment for the copies has been made by the requestor, or, if copies are being released in installments, after payment of a deposit is made pursuant to MMC 2.76.060;
 - 3. Acknowledge that the city has received the request and provide a reasonable estimate of the time the city will require to respond to the request. This estimate will take into consideration the large number or volume of records requested, the complexity of the request, the time it will take to coordinate departments to locate and assemble the requested records, third-party notice, review of records for exemption, and review of exemptions and records by legal staff;
 - 4. If the request is unclear or does not sufficiently identify the requested records, the city will request clarification from the requestor. Such clarification may be requested and provided by telephone. The city clerk-treasurer or designee may revise the estimate of when records will be available based on the clarification from the requestor. If the requestor fails to respond to the request to clarify and the entire request is unclear, the city of McCleary need not respond to the request. Otherwise, the city will respond to the portions of the request that are clear;

- 5. Deny the public record request. Denial must be accompanied by a written statement of specific reasons therefor.
- C. *Identifiable Record*. A public records request must be for identifiable records. A request for all, or substantially all, records prepared, owned, used or retained by the city is not a valid request for identifiable records; provided, that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the city's records.
- D. *Automated Requests*. The city may deny an automated or "bot" request that is one of multiple requests from the requestor within a 24-hour period. "Bot request" means a request for public records that the city reasonably believes was automatically generated by a computer program or script.
- E. *Protecting Rights of Others*. In the event that the requested records contain information that may affect the rights of others and may be exempt from disclosure, the city clerk-treasurer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure pursuant to RCW 42.56.580. Such notice should be given so as to make it possible for those other persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request and shall allow the affected person no more than 10 business days to prevent or limit the disclosure of the record.
- F. *Records Exempt from Disclosure*. Some records are exempt from disclosure, in whole or in part. If the city believes that a record is exempt from disclosure and should be withheld, the city clerk-treasurer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the city clerk-treasurer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.
- G. *Privilege Log.* If the city determines that a record is exempt and should be withheld, in whole or in part, the city will prepare and maintain a privilege log of those records. The privilege log will identify the type of record withheld; the date of record; the number of pages withheld; the author and/or recipient; the exemption invoked; and a brief explanation of how the exemption applies to the withheld record. A copy of the privilege log will be provided to the records requestor.
- H. *No Duty to Create Records*. The city is not obligated to create a new record in order to satisfy a request for records.
- Multiple Requests by the Same Party. Where a requester makes multiple, separate requests or makes one or more additional requests while a prior request is open, the PRO may queue the requests in the order in which they were received. The PRO is not required to work on additional requests until the initial request is completed and closed. Requesters are solely responsible for requesting to re-prioritize the order of their requests.

- J. *Request for Information*. The city may deny a request for information as the request is not a request for a public "record" as required under Chapter 42.56 RCW.
- K. *No Duty to Supplement Responses; No "Standing" Requests.* The City is only required to provide records that exist at the time a request is made. The City cannot fulfill "standing" requests or requests for records that may be created at a future date.

2.76.040 Providing records to requestor.

- A. *Receiving Records*. The requestor may indicate to the city clerk-treasurer whether he or she wishes to inspect records, have the records copied, pick them up in person, or have the records sent via mail or email.
- B. *Inspection of Records*. If a requestor seeks an opportunity to inspect public records, the city clerk-treasurer shall make the records available for inspection at City Hall during regular business hours. The city clerk-treasurer, or designee, shall be present or otherwise monitor when records are being inspected. The requestor shall indicate which documents he or she wishes the agency to copy and the city clerk-treasurer will notify the requestor when the requested documents will be available to claim.
- C. *Providing Records in Installments*. Public records may be made available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for public inspection or disclosure.
- D. *Revised Estimate of Time*. At any time while processing a request, the city clerk-treasurer may provide the requestor with a revised reasonable estimate of time within which the city will respond to the request. A revised estimate of time will be based on the factors detailed in MMC 2.76.030(B)(3). In addition, a revised estimate may be based upon any unexpected or unforeseen delays encountered during the request processing, additional requests submitted by the same requestor while the initial request is pending, and change circumstances or other considerations ascertained during processing.
- E. *Providing Electronic Records*. When a requestor requests records in an electronic format, if technologically feasible, the city clerk-treasurer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the city of McCleary and is generally commercially available; or will provide the records in a format that is reasonably translatable from the format in which the agency keeps the record. The requestor may also opt to have the records provided to them on digital storage media or device.
- F. Withdrawn or Abandoned Requests. The city may consider a request abandoned and close a request when the requestor either withdraws their request or fails to fulfill their obligations in

the processing of the request. The city may consider a request abandoned in the following circumstances:

- 1. If an entire request is unclear, and the requestor fails to clarify the request within 30 days of the city's request for clarification;
- 2. If the requestor fails to inspect records within 30 days of being notified that records are available for inspection;
- 3. If the requestor misses an appointment to inspect records and fails to contact the city within 30 days of the missed appointment;
- 4. If the requestor fails to view records within 30 days of being notified that records are available for electronic inspection;
- 5. If the requestor fails to pick up records at City Hall within 30 days of being notified that the records are available for in-person pick-up; or
- 6. If the requestor fails to pay a deposit or the final payment for the requested copies of records within 30 days of receiving an invoice from the city for payment thereof.
- G. *Closing a Request*. After the city clerk-treasurer has completed a request for disclosure by providing the requestor with responsive documents and a redaction log, if applicable, the city clerk-treasurer will close the request and inform the requestor of this status. The closure of a request shall signify that the request has been completed and is considered determinative.

2.76.050 Exemptions.

The city adopts by reference the exemptions from public disclosure contained in Chapter 42.56 RCW, including any future amendments thereto or recodification thereof. In addition to exemptions found in Chapter 42.56 RCW, other statutes outside of the Act may prohibit disclosure of specific information or records.

2.76.060 Copying fees.

A requestor may obtain paper copies or electronic scans of public records under RCW 42.56.120; the city will charge for these according to the public records fee schedule established by resolution of the city council.

2.76.070 Index of public records – Findings and order.

A. Findings.

1. The Public Records Act requires all cities and public agencies to maintain and make available a current index of all public records.

- 2. RCW 42.56.070(4) provides that an agency need not maintain such an index if to do so would be unduly burdensome, but it must issue and publish a formal order specifying the reasons why the extent to which compliance would be unduly burdensome or would interfere with agency operations.
- 3. The city is comprised of numerous departments, their divisions, and subdivisions, many if not all of which maintain separate databases and/or systems for the indexing of records and information.
- 4. Because the city has records which are diverse, complex and stored in multiple locations and in multiple computer systems, formats and/or databases, it is unduly burdensome, if not physically impossible, to maintain a current index of all records.
- B. *Order*. Based upon the findings set forth in subsection (A) of this section, and pursuant to RCW 42.56.070(4), the city council orders the following:
 - 1. The city is not required to maintain an all-inclusive index of public records due to the undue burden and near-impossibility of maintaining such an index.
 - 2. The city will make available for inspection and/or copying all public records, including any indexes that are maintained by the city, except to the extent that such records are exempt from public disclosure.

2.76.080 Modifications to fees and charges.

All fees and charges identified in this chapter may be modified by the clerk-treasurer or designee, as approved by resolution of the city council from time to time as deemed necessary to reflect increases in the costs of providing the services identified in this chapter. All fees and charges established pursuant to this chapter shall reflect the actual costs of the services provided.

2.76.090 Denials of Requests for Public Records – Internal Administrative Review – Judicial Review.

When a requester disagrees with the City's decision to withhold or redact a record or portion thereof, the requester may petition in writing (including by email) to the PRO for a review of the decision. The petition must include a copy of the denial or reasonably identify the written denial or claim of exemption made by the PRO.

The PRO will promptly provide the requester's petition and any other relevant information to the City Attorney to conduct an internal administrative review of the denial/exemption decision. Within two days of the City's receipt of the petition, or within such other time period mutually agreed upon by City Attorney's Office and requester, the City Attorney will affirm or reverse the

denial/exemption. If the denial/exemption is affirmed, the requester may seek judicial review pursuant to RCW 42.56.550. If the denial is reversed, the PRO will promptly produce the record for requester.

Ordinance # _____

AN ORDINANCE ADOPTING A NEW ECONOMIC DEVELOPMENT ELEMENT AND PARKS AND RECREATION ELEMENT, AND MAKING OTHER AMENDMENTS TO THE CITY OF MCCLEARY'S COMPREHENSIVE PLAN

RECITALS:

WHEREAS, City of McCleary adopted a Comprehensive Plan in 2002 for the orderly physical development of the City pursuant to RCW 35A.63.060; and

WHEREAS, RCW 35A.63.062 empowers the City to, as part of a comprehensive plan, approve additional optional elements relating to the physical development of the city; and

WHEREAS, the Economic Development Element and the Parks and Recreation Element relate to the physical development of the City; and

WHEREAS, the Land Use Element has been updated to include new land use designations for public and institutional properties and two new overlay districts to increase infill housing and accommodate master planning; and

WHEREAS, the Transportation Element and the Capital Facilities Element have been updated with a 6-year improvement programs; and

WHEREAS, this proposed update sets new 20 year goals for the City and provides updated policies and objectives to help guide decisions about growth, infrastructure and improving quality of life in McCleary; and

WHEREAS, the City of McCleary engaged in a public participation program in accordance with RCW 35A.63.070; and

WHEREAS, per RCW 35A.63.070, the City of McCleary City Council was briefed on the updates to the comprehensive plan at their meeting on March 13, 2024; and

WHEREAS, the City of McCleary held a public hearing on April 10, 2024 to approve the "McCleary Comprehensive Plan Update 2022-2042";

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of McCleary, Washington as follows:

SECTION 1: The City Council adopt the following findings in support of adopting the 2022 update to the McCleary Comprehensive Plan and Future Land Use Map that are the subject of this ordinance:

- 1. Extensive public outreach was conducted during the Comprehensive Plan update process. A group of citizens formed the Advisory committee and held numerous workshops in the process of reviewing and updating the 2002 comprehensive plan. The City hosted a Comprehensive Plan Update booth at the July 2023 Bear Festival. Information and draft documents were also posted on the city's Website.
- 2. Washington State Environmental Policy Act (SEPA) review for the Comprehensive Plan update was conducted and a DNS was issued on _____ 2024.
- 3. The City of McCleary is not fully subject to the Growth Management Act. Per RCW 35A.63.061, McCleary is required to prepare a comprehensive plan for the orderly physical development of the city. The comprehensive plan must have a land use element and a circulation element. The proposed comprehensive plan meets the requirement in that it has the two required elements and exceeds the requirement in that it has four other elements.

SECTION 2: The City Council of the City of McCleary do ordain as follows:

- 1. The attached "McCleary Comprehensive Plan Update 2022-2024" is hereby adopted in its entirety.
- 2. All public hearings required by law pertaining to the same, having been duly held, the city council adopts that certain McCleary comprehensive plan entitled McCleary Comprehensive Plan, dated February 2024, as the new comprehensive plan of the city, including any and all maps which are a part thereof.

One copy of the comprehensive plan, with maps which form a part thereof, is on file and shall remain on file in the office of the city clerk, and a copy thereof, with maps which form a part thereof, is also on file in the office of the director of public works of the city. The copies so filed shall be available for public inspection as required by RCW 35A.63.072.

SECTION 3: 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 4: Effective Date.

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

Section 5: 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 ______, 2024, by the City Council of the City of McCleary,

and signed in approval therewith this _____ day of _____, 2024.

CITY OF McCLEARY:

CHRIS MILLER, Mayor

ATTEST:

JENNA AMSBURY, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney

Resolution No.

A RESOLUTION ADOPTING THE CITY OF MCCLEARY VIDEO SURVEILLANCE POLICY

WHEREAS, the City of McCleary has installed video surveillance cameras to enhance public safety and protect city resources; and

WHEREAS, a policy is needed to govern the use of the City's Video Surveillance, electronic recordings, and to set parameters restricting the non-court ordered use of video surveillance in public places in a manner consistent with accepted rights of privacy; and

WHEREAS, these policy recommendations have been reviewed by the policy committee and the City Attorney; and

THEREFORE, be it resolved, the City of McCleary shall adopt the Video Surveillance Policy labeled as Attachment #1 to this Resolution. The Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED THIS ______ DAY OF MAY 2024, by the City Council of the City of McCleary, and signed in authentication thereof this _____ day of May, 2024.

CITY OF McCLEARY:

Chris Miller, Mayor

ATTEST:

Jenna Amsbury, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney

CITY OF MCCLEARY VIDEO SURVEILLANCE POLICY

For Video Surveillance Monitoring and Recording of Public Areas for Safety and Security Purposes

PURPOSE

The purpose of this policy is to govern the use of the City's Video Surveillance and electronic recording. This policy applies to all use of the City's video surveillance monitoring and/or recording devices affixed to city property. This policy is established to set parameters restricting the non-court ordered use of video surveillance in public places and to enhance public safety and security in a manner consistent with accepted rights of privacy.

DEFINITIONS

- 1. "Extracting" means copying images from the hard drive or Internet site to some other media (CD ROM, external hard drive, USB drive, etc.).
- 2. "Monitoring" means real-time viewing or viewing footage.
- 3. "Personnel" means authorized police officers or non-sworn police personnel.
- 4. "Recording" means capturing images on a computer disk or drive, Internet storage site, CD-ROM, or videotape 24 hours a day, seven days a week, yearlong.

GENERAL PRINCIPLES

The principle objectives of video surveillance monitoring and/or recording in public areas include:

- 1. Promote a safe environment by preventing/deterring acts of theft, vandalism, harassment, and/or assault.
- 2. Assist in identification of individuals involved in criminal activity on City owned or managed property.
- 3. Assist in the safe daily operation of City parks and related facilities.
- 4. Assist law enforcement agencies in investigating criminal activity.

To assure there is no violation of a person's reasonable expectation of privacy, video surveillance cameras shall be focused on public areas and the images shall not be used or disseminated improperly.

The City shall comply with all local, federal and state law applicable to the use of surveillance cameras in public space.

Video surveillance monitoring and/or recording will be conducted in a professional, ethical, and legal manner. Personnel using the video surveillance camera system will be appropriately trained and supervised in the responsible use of this system. Violations of this policy and procedures may result in disciplinary action and may subject those involved to criminal and/or civil liability under applicable state and federal law.

Information obtained through video monitoring and/or recording will be used exclusively for safety, security, and other legitimate purposes. Information obtained through monitoring and/or recording will only be released in accordance with this policy or as required by law or as required by the Public Records Act.

Video surveillance monitoring and/or recording of public areas will be conducted in a manner consistent with all City policies. Except for police investigations involving person(s) whose description is known, this policy prohibits monitoring and/or recording based solely on characteristics and classifications (e.g., race, gender, sexual orientation, national origin, disability, etc.).

Video surveillance monitoring of public areas, dwellings, and businesses in the City of McCleary is limited to uses that do not violate the reasonable expectation of privacy as defined by law.

Video surveillance shall not be used to monitor city employees.

To maintain an informed community, the City will list on its web page information describing the purpose and location of video surveillance cameras and the policy for their use.

INSTALLATION AND APPROVAL

Placement of additional cameras at other City facilities or buildings, such as City Hall, other City properties, public parks, open space areas, public streets or other public locations, requires review by the Chief of Police and approval by the City Council.

When seeking approval, staff will address the following issues and concerns in supporting their request:

- 1. Explanation for why the camera is needed in the location.
- 2. Equipment needed, including:

- Type of camera needed.
- Location of camera where to be affixed.
- Location of necessary equipment.
- 3. Other deterrence or detection measures that were considered, and why video monitoring is the best solution.
- 4. Any specific, verifiable reports of incidents of crime or significant safety concerns that have occurred in the location to be placed under video monitoring.
- 5. Possible effects of the proposed video monitoring system on personal privacy, if any, and how they will be mitigated.
- 5. Appropriate consultation with stakeholders, including the public or reasons why this is not necessary.
- 6. Approach to installing and maintaining the system.
- 7. Fiscal impact and availability of funding.

Permanent, fixed-mounted cameras will not be placed in areas where a reasonable expectation of privacy is standard, such as inside restrooms.

1. Cameras located internally will not be directed to look through windows to areas outside the building, unless necessary to protect external assets, provide for the personal safety of individuals or deter criminal activity from occurring.

2. Cameras will not be directed to look into adjacent, non-City owned buildings.

3. Placement of cameras will also take into consideration physical limitations such as availability of power, cell reception and reasonable mounting facilities.

OPERATING PROCEDURES

Nothing in this policy is intended to limit the reasonable and legal use of the video surveillance cameras during exigent circumstances involving matters of public and/or officer safety. All recording or monitoring of public areas for security and safety purposes by City authorized cameras is limited exclusively to practices that will not violate the standards of a reasonable expectation of privacy as defined by law. All video recordings will be video only, no audio recording is allowed.

Oversight/Administration:

The City of McCleary Police Department (MPD) is the department authorized and responsible to oversee and coordinate the use of public cameras in the City. The MPD has primary responsibility for ensuring adherence to this policy and for disseminating the policy to persons requesting information on the policy and procedures.

The Chief of MPD, or his/her designee has the responsibility to authorize all video surveillance monitoring for safety and security purposes in the City. The Chief will have the administrative rights to the system including setting up staff access and log in credentials. City Council and the Mayor shall not have access to the system.

The MPD is responsible for following new developments in the relevant laws and in security industry practices to ensure that video surveillance monitoring and/or recording in the City is consistent with high standards and protections.

The MPD will assist in aiming and focusing the cameras during the installation phase and will view and manage data from the cameras.

Training:

1. All personnel operating the video surveillance system will be trained in the technical, legal, and ethical parameters of appropriate camera use.

- a. Personnel will receive a copy of this policy and provide written acknowledgement that they have read and understood its contents.
- b. Personnel will receive updated training on this policy as needed. In circumstances in which video surveillance cameras are monitored, all personnel involved in monitoring and/or recording of public areas will perform their duties in accordance with the law and this policy.

2. The Chief of Police or his/her designee will ensure that responsible and proper camera monitoring/recording practices by personnel are followed by conducting periodic audits of the video surveillance camera system.

Operation:

 The video surveillance cameras will be monitored by police department personnel. The Chief of Police will assign a designee to periodically review video systems to insure they are functioning properly and recording correctly using the proper date/time stamp.
 An officer will be dispatched to any area in which a crime, offense, motor vehicle accident, public safety risk, traffic problem, or other incident which necessitates police intervention.

3. Video surveillance cameras shall be used to observe locations that are in public view and where there is no reasonable expectation of privacy. Any view provided by a video surveillance camera shall be no greater than what is available from the public vantage point.

4. Personnel shall not monitor/record individuals based on characteristics of race, gender, ethnicity, sexual orientation, disability, or classification such as national origin, etc. protected by state and federal laws. Personnel will monitor/record based on suspicious

behavior, not individual characteristics. **EXCEPTION**: Police investigations involving person(s) whose description is known.

5. The monitoring equipment will be configured to prevent personnel from tampering or duplicating recorded information without authorization.

6. Personnel shall not disseminate information learned from monitoring video surveillance public cameras unless such release complies with the law, this policy of other information release laws or policies.

7. Camera positions and views of residential housing shall be limited. Any view given to housing will be no greater than what is available with unaided vision. Furthermore the view of a residential housing facility must not violate the standard of "reasonable expectation of privacy."

RETENTION, EXTRACTION AND STORAGE

Recorded video records are stored on the cloud until the record is superseded by being overwritten with new records, unless retained as part of a criminal investigation or court proceedings (criminal or civil), or other bona fide use as approved by the Chief of Police. Images obtained through video camera monitoring/recording will be retained for a length of 30 days, unless such images need to be retained longer for the final resolution of a case.

Downloaded/ archived video recorded images will be stored in a secure location with access by authorized personnel only.

Only trained Staff authorized by the Chief of Police shall be authorized to extract video from footage from the Internet, computer disk, or drive.

Any video footage extracted for investigation purposes shall be stored in a manner that will exclude access by unauthorized personnel. Video footage, which is evidence, will be processed and stored in the evidence room with access by authorized personnel only.

EXCLUSIONS

This policy does not apply to the use of surveillance, or to the conduct of surveillance monitoring or recording by a law enforcement agency engaged in a legitimate criminal investigation. This policy does not apply to the use of hand-held video cameras, police body cameras or police dash cameras.