

**INTERLOCAL AGREEMENT
BETWEEN
GRAYS HARBOR COUNTY AND THE CITY OF MCCLEARY
TO
PROTECT AND MANAGE THE WILDCAT CREEK AQUIFER
BY
COORDINATING LAND USE DEVELOPMENT
AND
ESTABLISHING THE WILDCAT CREEK AQUIFER
JOINT MANAGEMENT PROGRAM**

THIS AGREEMENT is made and entered into this date by Grays Harbor County, a political subdivision of the State of Washington (hereinafter referred to as the “County,”) and the City of McCleary, a code city, incorporated under the laws of the State of Washington (hereinafter referred to as the “City.”)

WHEREAS, because of concerns about potential detrimental effects of land use development on the Wildcat Creek Aquifer, the County Board of Commissioners declared a six-month emergency moratorium on development on land above the Aquifer by adopting Ordinance 357 on February 12, 2007; and,

WHEREAS, the County subsequently extended the moratorium three times by adopting Ordinances 366, 369, and 375; and

WHEREAS, during the moratorium the County, the City, and the Washington State Department of Health and the Department of Community, Trade and Economic Development financed studies of the Wildcat Creek Aquifer area’s hydrogeology and of regulatory alternatives; and

WHEREAS, key findings of these hydrogeologic studies are that: (1) Wildcat Creek Aquifer is the only practical water supply for several hundred individual domestic wells and six public water systems, including the City’s; (2) the Aquifer serves as a naturally replenishing reservoir; (3) local soils and geologic deposits are relatively permeable, enabling potential transmission of contaminants to the Aquifer; (4) Aquifer management will always be characterized by uncertainty and, therefore, should allow for a margin of safety; and (5) management is further complicated by fragmented land ownership and the several governmental jurisdictions, unlike a municipal watershed under single ownership and management; and

WHEREAS, based on these hydrogeologic studies, the County established critical aquifer recharge areas around each public water system well in the Wildcat Creek Aquifer by amending Grays Harbor County Code 17.56.180 and affirmed the appropriateness of the existing Grays Harbor County Comprehensive Plan Rural Lands Element policies and zoning designations for low-density land use above the Aquifer, Ordinance 377 adopted October 6, 2008; and,

WHEREAS, the County found that these two actions plus ongoing collaboration with the City on a joint management program for the Aquifer constituted a three-part strategy that eliminated the emergency condition on which the development moratorium was based; and,

WHEREAS, based on this three-part strategy the County canceled the moratorium under Ordinance 378 on October 6, 2008; and

WHEREAS, the County Comprehensive Plan's Community Plan Coordination Element encourages city comprehensive plans to designate Urban Services Areas and also encourages the coordination and integration of county and city development plans, programs, and policies; and

WHEREAS, the County and City wish to enter into an Interlocal Agreement for coordinating land use development and joint management of the aquifer;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the City and County agree as follows:

SECTION A. LAND USE COORDINATION

Section A1. The Wildcat Creek Aquifer – An Area of High Natural Resource Value.

The Rural Lands Element of the County's Comprehensive Plan sets forth objectives and policies for a low-density mix of forestry, agriculture, and lot sizes of five acres or more. Under certain conditions lot sizes smaller than five acres may also be created. However, the County Plan states that such smaller lot sizes are to be avoided in "areas of high natural resource values." (Grays Harbor County, *Rural Lands Study, Part Two: Recommendations*, July 1982. Policies for the Rural Residential Area, 2.1, policy (f) under "Areas to be avoided by this designation, page 5; and policy (e) under R-1 and R-2 Zones, page 14.)

The County and City recognize that the Wildcat Creek Aquifer is an "area of high natural resource value," as stated in the County Comprehensive Plan. Therefore, rezones that would allow the subdivision of land into lots smaller than five acres should be avoided on land located on top of the Aquifer. The County and City recognize that additional lots smaller than five acres may be subdivided within areas under County jurisdiction that are already zoned RR and R2, if developed in accordance with County Code. The City and County also recognize that property within the City that overlies the Aquifer may also be developed in accordance with existing zoning, provided that such development is served by City water and sewer.

Section A2. Transition and Coordination Policy.

- a. The purposes of this policy are:
1. to improve County-City Coordination for land use within the Aquifer boundaries in accordance with the Grays Harbor County Comprehensive Plan Coordination Element; and
 2. to provide guidance for development, comprehensive plan changes, and rezones of land within the Aquifer boundaries and under County jurisdiction that, as growth occurs, is anticipated to become part of the City.
- b. In addition to improved coordination, the intent of this policy is that development or rezones that occur on land presently under County jurisdiction, which will need City services, be located, designed, and developed so that the City can provide such services economically. While it is City policy to provide services, including water and sewer, within City boundaries, such services can be extended outside of City boundaries based on conditions expressly stating that the area will be annexed in the future (e.g. signed annexation covenants) and the cost of services are economically feasible for the City.
- d. Following adoption of this Interlocal agreement, the City will identify its Urban Services Area. The term “urban services area” is from Grays Harbor County, *Rural Lands Study, Part Two: Recommendations*, Policy 9 of the Community Plan Coordination Element, page 31. The term is also commonly known as “urban growth area.” An urban services area – or urban growth area – is land that the City recognizes may, at some stage, be subject to consideration for annexation and/or provision of City utility services, whether within the City or while in the County.
- e. For purposes of this policy, land within Aquifer boundaries that is under County jurisdiction is understood to be of three types of areas:
1. Type A refers to the City’s wellhead protection area, which is also designated as a Critical Aquifer Recharge Area under the County’s Critical Areas Ordinance.
 2. Type B refers to areas that the City has designated as its Urban Services Area.
 3. Type C refers to all other areas within Aquifer boundaries that are under County jurisdiction.
- f. The City Planning Commission shall review, and report to the City Council, all policy change proposals for County Comprehensive Plan and rezones that are proposed for Type A and Type B areas. The City Council shall review the Planning Commission recommendations and submit City recommendations to the County.

- g. City staff shall review all County Comprehensive Plan changes and rezone applications that are proposed for Type C areas. City staff shall also review all subdivision, conditional shoreline substantial development, recreational vehicle park, mobile home park conditional land use and surface excavation development applications proposed for all Type A, Type B, and Type C areas.
- h. If, during the interim period between adoption of this Interlocal Agreement and the City's designation of its Urban Services Area, the County receives either a pre-application or an application for a Comprehensive Plan change, rezone, or development for land within the Aquifer, the County and the City will seek to agree on guidance concerning the proposal that is consistent with the intent of this section. Such guidance shall be for use by the County during its review process. The County retains all decision-making authority over applications for Comprehensive Plan changes, rezones, and land development within County jurisdiction.
- i. Any agreement reached by the City and the County under this section shall include appropriate provision for filing notice of a proposed action in compliance with Chapter 36.93 RCW, if applicable, with the Grays Harbor County Boundary Review Board.

Section A3. Extension of City water and sewer to existing R-2 Zones.

Several areas adjacent to the City and above the Aquifer are zoned R2. They are located south and west of Highway 108 on the west end of the City and in the vicinity of Lynch and Larson Roads, immediately north of the City. Although the County's R2 zone allows lots small enough to make municipal water and sewer more economical to provide than would the RR zone, most lots in the two existing R2 areas have already been platted at lot sizes that are not efficient for provision of City services. (See map.)

The City and County will seek means for providing existing R-2 zones with City services, including joint applications for grants. Any such provision of City services would be conditioned by an annexation covenant.

**SECTION B. WILDCAT CREEK AQUIFER
JOINT MANAGEMENT PROGRAM**

Section B1. Establishing the Wildcat Creek Aquifer Joint Management Program.

The County and City hereby establish the Wildcat Creek Aquifer Joint Management Program.

Section B2. Maximizing the quantity of groundwater.

The County and City agree:

- a. To encourage water conservation.
- b. Where appropriate, to use low impact development techniques that increase infiltration of precipitation to groundwater.

- c. To manage City and County surface runoff to return precipitation to the aquifer rather than send it downstream.

Section B3. Minimize the transmission of contaminants to the aquifer.

The County and City agree:

- a. To educate residents about the responsibilities of living above the water supply.
- b. To update the list of potential contamination sites for chemicals.
- c. To review and, where necessary, update spill response plans.
- d. To examine their respective zoning ordinances to determine whether such ordinances allow or condition uses that are too risky to locate on top of a water supply reservoir. The intent here is strike the right balance between allowing uses whose risks can be eliminated through cost-effective regulation and prohibiting those uses that cannot. After completing these reviews the County and City will specify which uses shall require a hydrogeologic assessment by a licensed hydrogeologist. The County and City shall each make its own determination, and neither shall require joint concurrence.

Section B4. Learn more about the Aquifer.

Much can be learned at a fairly reasonable cost about the Aquifer, even though the impossibility of ever obtaining a complete and detailed picture of the Aquifer's below-ground variations means that land use decisions will always entail uncertainty. Monitoring streamflows can refine estimates of safe yield. Monitoring a sample of wells over time can build a database and can alert residents and the two governments to problems with groundwater quality. The County monitored a sample of private wells in 2008 and did not detect evidence of contamination. The databases established through both monitoring programs can aid future decision making. Therefore, the County and City agree:

- a. Additional monitoring of private wells: If the County and City decide that additional monitoring of private wells is necessary, they shall agree on a monitoring program and designate funds for its operation.
- b. To monitor the level of Wildcat Creek downstream of the point where its three branches converge.
- c. To build an ongoing record of monitoring results to aid future decision making.

Section B5. Responsibility

The McCleary City Council and the Grays Harbor County Board of Commissioners shall be responsible for the Wildcat Creek Aquifer Joint Management Program. No new or separate legal or administrative entity is created to administer the provisions of this

agreement. The Lead Staff specified in Section B6 shall jointly administer the undertakings of the parties under this agreement.

Section B6. Lead Staff

Each government shall designate a lead staff person for the Joint Management Program. For Grays Harbor County the lead shall be the Deputy Director of the Community Development Department. For the City of McCleary the lead shall be the City Administrator. The designations are the presumptive designations unless the County Board of Commissioners changes the County's designation, or the City Mayor and Council change the City's designation.

Section B7. Work Plan

The lead staff persons shall be responsible for preparing an annual work plan. The first work plan shall be prepared within 30 days after this interlocal agreement takes effect. Subsequent work plans shall be prepared by July 1 of each year. The County Board of Commissioners and the City Council shall approve work plans.

Section B8. Record Keeping and Reporting

The two governments will keep records of progress on the work plan in at least one location and post updates on the County's website. At least once per year the lead staff members for the County and City will jointly update the Board of Commissioners and the City Council at their regularly scheduled public meetings.

Section B9. Funding

The two governments may apply jointly for funding to carry out the aquifer management program. If expected or actual funding is withdrawn, reduced or limited in any way for work planned under this agreement or in any amendment hereto, the parties are not obligated to perform the unfunded task until funds become available.

Section B10. Duration of Agreement and Termination

This agreement shall be deemed to have commenced and become effective on such date as both the County and the City have executed it, and it shall continue in effect indefinitely until terminated by agreement of both parties, or by written notice given by one party to the other at least one year prior to the date of such termination.

Section B11. Amendments

Any amendment to this agreement shall only be as specifically authorized by the Board of County Commissioners and the City Council of the City of McCleary, and shall be in writing.

NOW THEREFORE BE IT JOINTLY RESOLVED BY THE CITY OF MCCLEARY AND THE BOARD OF COUNTY COMMISSIONERS FOR GRAYS HARBOR COUNTY that the Interlocal Agreement to Protect and Manage the Wildcat Creek Aquifer and establish a joint management program is hereby accepted and adopted this 6th day of October, 2009.

City of McCleary

Board of County Commissioners
Grays Harbor County Washington

Wally Bentley, Mayor

Mike Wilson, Chair

Albert A. Carter, District 1

Terry L. Willis, District 3

Attest:

Attest

Wendy Collins, Clerk-Treasurer

Donna Caton, Clerk of the Board