CITY OF AUBURN WASHINGTON	**City Council Meeting** **November 4, 2019 - 7:00 PM** **City Hall Council Chambers** **AGENDA** **Watch the meeting LIVE!** **Watch the meeting video** Meeting videos are not available until 72 hours after the meeting has concluded.

I. **CALL TO ORDER**

A. **Pledge of Allegiance**

B. **Roll Call**

II. **ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS**

III. **APPOINTMENTS**

IV. **AGENDA MODIFICATIONS**

V. **CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE**

A. **Public Hearings - (No public hearing is scheduled for this evening.)**

B. **Audience Participation**

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

C. **Correspondence - (There is no correspondence for Council review.)**

VI. **COUNCIL AD HOC COMMITTEE REPORTS**

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

1. Finance Ad Hoc Committee (Chair Wales)

VII. **CONSENT AGENDA**

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

A. Minutes of the October 21, 2019 Regular Council Meeting

B. Claim Vouchers (Thomas)

Claim vouchers list dated November 4, 2019 which includes voucher numbers 456099 through 456272, in the amount of $868,491.95 and six wire transfers in the amount of $849,404.37

C. Payroll Vouchers (Thomas)

Payroll check numbers 538659 through 538674 in the amount of $572,220.50, electronic deposit transmissions in the amount of $2,015,857.72 for a grand total of $2,588,078.22 for the period covering October 17, 2019 to October 30, 2019

D. 2020 Property Tax Levy Public Hearing (Thomas)

City Council to call for a public hearing to receive public comments and suggestions with regard to possible increases in property taxes

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

X. ORDINANCES

A. Ordinance No. 6733 (Tate)

An Ordinance of the City Council of the City of Auburn, Washington, related to the Shoreline Master Program; and amending Chapter 16.10 of the Auburn City Code, and repealing and reenacting Chapter 16.08 of the Auburn City Code

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6733.)

B. Ordinance No 6747 (Faber)

An Ordinance of the City Council of the City of Auburn, Washington, relating to tobacco use in public parks, and amending chapter 2.22 of the Auburn City Code

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6747.)

XI. RESOLUTIONS

A. Resolution No. 5462 (Gaub/Thomas)

A Resolution of the City Council of the City of Auburn, Washington, establishing a hearing date to consider an Ordinance authorizing the City to assume the rights, powers, functions, and obligations of the Auburn Transportation Benefit District

(RECOMMENDED ACTION: Move to adopt Resolution No. 5462.)

B. Resolution No. 5467 (Faber)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement between the City of Auburn and the Washington Department of Commerce to accept and expend grant funds for interior restoration of the Auburn Arts and Culture Center

(RECOMMENDED ACTION: Move to adopt Resolution No. 5467.)

C. Resolution No. 5468 (Faber)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to negotiate and execute an agreement between the City of Auburn and King County to accept and expend grant funds for the coordination and provision of services

for seniors

(RECOMMENDED ACTION: Move to adopt Resolution No. 5468.)

D. Resolution No. 5469 (Gross)

A Resolution of the City Council of the City of Auburn, Washington, amending the City Council rules of procedure

(RECOMMENDED ACTION: Move to adopt Resolution No. 5469.)

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. **From the Council**

B. **From the Mayor**

XIII. ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (http://www.auburnwa.gov), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.

AGENDA BILL APPROVAL FORM

Agenda Subject:
Minutes of the October 21, 2019 Regular Council Meeting

Date:
October 30, 2019

Department:
City Council

Attachments:
10-21-2019 Minutes

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: November 4, 2019

Item Number: CA.A

CITY OF AUBURN WASHINGTON	**City Council Meeting** **October 21, 2019 - 7:00 PM** **City Hall Council Chambers** **MINUTES** **Watch the meeting LIVE!** **Watch the meeting video** Meeting videos are not available until 72 hours after the meeting has concluded.

I. CALL TO ORDER

A. Pledge of Allegiance

Mayor Nancy Backus called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn and led those in attendance in the Pledge of Allegiance.

B. Roll Call

Councilmembers present: Deputy Mayor Bill Peloza, Bob Baggett, Larry Brown, Claude DaCorsi, John Holman, and Yolanda Trout-Manuel. Councilmember Wales was excused.

Mayor Nancy Backus and the following department directors and staff members were present: City Attorney Steve Gross, Director of Finance Jamie Thomas, Director of Administration Dana Hinman, Director of Human Resources & Risk Management Candis Martinson, Director of Public Works Ingrid Gaub, Director of Community Development Jeff Tate, Director of Parks, Arts, and Recreation Daryl Faber, Director of Innovation & Technology David Travis, Real Property Analyst Josh Arndt, Transportation Planner Joe Welsh, Police Commander Daniel O'Neil, and Deputy City Clerk Teresa Mattingly.

II. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

Mayor Backus presented Director Thomas and the Finance Department with the Distinguished Budget Presentation Award and a Certificate of Recognition.

III. APPOINTMENTS

There was no appointments.

IV. AGENDA MODIFICATIONS

There were no modifications to the agenda.

V. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Proposed Modifications to the 2020-2025 Transportation Improvement Program (Gaub)

   City Council to hold a Public Hearing in consideration of the adoption of changes to the 2020-2025 Transportation Improvement. See Resolution No. 5464 for further action on this item

   Mayor Backus opened the public hearing at 7:04 p.m. No one came forward to speak, she closed the hearing.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

Logan Shepard, 13326 SE 236th Pl., Kent
Mr. Shepard discussed Normandy Aircraft coming to the City of Auburn.

Bob Zimmerman, 33029 46th Pl S. Auburn, WA
Mr. Zimmerman encouraged the City of Auburn to adopt an ordinance related to reducing emissions.

C. Correspondence

There was no correspondence for Council to review.

VI. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

1. Finance Ad Hoc Committee (Chair Wales)

   Councilmember DaCorsi, Vice Chair of the Finance ad hoc committee, reported he and Councilmember Wales have reviewed the claims and payroll vouchers described on the Consent Agenda this evening and recommended their approval.

VII. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

A. Minutes of the October 7, 2019 Regular Council Meeting

B. Claim Vouchers (Thomas)
Claim vouchers list dated October 21, 2019 which includes voucher numbers 455901

through 456098 in the amount of $9,153,617.60 and two wire transfers in the amount of $530,700.87

C. Payroll Vouchers (Thomas)

Payroll check numbers 538640 through 538658 in the amount of $240,685.77, electronic deposit transmissions in the amount of $2,069,852.72 for a grand total of $2,310,538.49 for the period covering October 3, 2019 to October 16, 2019.

Deputy Mayor Peloza moved and Councilmember Baggett seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 6-0

VIII. UNFINISHED BUSINESS

There was no unfinished business.

IX. NEW BUSINESS

There was no new business.

X. ORDINANCES

A. Ordinance No. 6728 (Tate)

An Ordinance of the City Council of the City of Auburn, Washington, relating to Land Use Development Regulations related to mixed-use development; amending Chapters 18.08, 18.23, 18.31, and 18.57 of the Auburn City Code and Exhibit 1 to Ordinance No. 6382

Councilmember DaCorsi moved and Councilmember Holman seconded to adopt Ordinance No. 6728.

MOTION CARRIED UNANIMOUSLY. 6-0

XI. RESOLUTIONS

A. Resolution No. 5448 (Hinman)

A Resolution of the City Council of the City of Auburn, Washington, declaring forfeited real property as surplus and authorizing the Mayor to negotiate and execute agreements

Councilmember Holman moved and Councilmember Brown seconded to adopt Resolution No. 5448.

MOTION CARRIED UNANIMOUSLY. 6-0

B. Resolution No. 5458 (Hinman)

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to negotiate and execute an Airport Office and Apron Lease with Normandy Aircraft

Councilmember Brown moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5458.

MOTION CARRIED UNANIMOUSLY. 6-0

C. Resolution No. 5459 (Hinman)

A Resolution of the City Council of the City of Auburn, Washington, adopting the City of Auburn 2019 Comprehensive Emergency Management Plan

Councilmember Holman moved and Councilmember Brown seconded to adopt Resolution No. 5459.

MOTION CARRIED UNANIMOUSLY. 6-0

D. Resolution No. 5461 (Tate)

A Resolution of the City Council of the City of Auburn, Washington, adopting the 2020-2024 Consolidated Plan, the Analysis of Impediments to Fair Housing Choice, and the 2020 Annual Action Plan

Councilmember Trout-Manuel moved and Councilmember Holman seconded to adopt Resolution No. 5461.

MOTION CARRIED UNANIMOUSLY. 6-0

E. Resolution No. 5464 (Gaub)

A Resolution of the City Council of the City of Auburn, Washington, approving and adopting the modification of the 2020-2025 Transportation Improvement Program of the City of Auburn

Councilmember DaCorsi moved and Councilmember Trout-Manuel seconded to adopt Resolution No. 5464.

MOTION CARRIED UNANIMOUSLY. 6-0

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. From the Council

Councilmember Baggett reported he attended an Emergency Management meeting.

Councilmember DaCorsi reported he attended the King County Regional Transit Committee meeting.

Councilmember Trout-Manuel reported she attended a conference call with the National League of Cities and the Hispanic Elected Local Officials (HELO) Board, the grand opening at Olympic Middle School, a women's luncheon at Holy Family Church, the Candidate Form and meetings with

the Auburn Prevention Coalition and Emergency Services.

Councilmember Brown reported he attended the National Governors Association meeting.

Councilmember Holman reported he attended the grand opening at Olympic Middle School with Councilmember Baggett and Councilmember Trout-Manuel and the National League of Cities conference.

B. **From the Mayor**

Mayor Backus reported she attended a conference in Tamba Japan with the City of Auburn's Sister City and the Seattle Metropolitan Chambers Annual Leadership Conference.

XIII. EXECUTIVE SESSION

Mayor Backus recessed into executive session at 7:41 p.m. for 15 minutes pursuant to RCW 42.30.110 (1)(B) to discuss and consider the selection of a real estate site that public knowledge of could likely cause a price increase.

Mayor Backus reconvened at 7:57 p.m.

Council discussed Resolution No. 5465.

Resolution No. 5465
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a contract for purchase and sale between the City of Auburn and Jillian Enterprises, LLC for real property

Deputy Mayor Peloza moved and Council seconded to adopt Resolution No. 5465.

MOTION CARRIED UNANIMOUSLY. 6-0

XIV. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 8:01 p.m.

APPROVED this 4th day of November, 2019.

_____ _____

NANCY BACKUS, MAYOR Teresa Mattingly, Deputy City Clerk

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AGENDA BILL APPROVAL FORM

Agenda Subject:
Claim Vouchers (Thomas)

Date:
October 30, 2019

Department:
Finance

Attachments:
No Attachments Available

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Approve Claim Vouchers

Background Summary:

Claim vouchers list dated November 4, 2019 which includes voucher numbers 456099 through 456272, in the amount of $868,491.95 and six wire transfers in the amount of $849,404.37.

Reviewed by Council Committees:

Councilmember:

Staff: Thomas

Meeting Date: November 4, 2019

Item Number: CA.B

AGENDA BILL APPROVAL FORM

Agenda Subject:
Payroll Vouchers (Thomas)

Date:
October 30, 2019

Department:
Finance

Attachments:
No Attachments Available

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Approve Payroll Vouchers

Background Summary:

Payroll check numbers 538659 through 538674 in the amount of $572,220.50, electronic deposit transmissions in the amount of $2,015,857.72 for a grand total of $2,588,078.22 for the period covering October 17, 2019 to October 30, 2019.

Reviewed by Council Committees:

Councilmember:

Staff: Thomas

Meeting Date: November 4, 2019

Item Number: CA.C

AGENDA BILL APPROVAL FORM

Agenda Subject:
2020 Property Tax Levy Public Hearing (Thomas)

Date:
October 30, 2019

Department:
Finance

Attachments:
No Attachments Available

Budget Impact:

Administrative Recommendation:

City Council to approve calling for a public hearing on November 18, 2019.

Background Summary:

This public hearing provides an opportunity for any citizens to make comments or suggestions regarding revenue estimates and possible increases in property taxes. The Department request the public hearing be held on November 18, 2019.

Reviewed by Council Committees:

Councilmember:

Staff: Thomas

Meeting Date: November 4, 2019

Item Number: CA.D

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No. 6733 (Tate)

Date:
October 29, 2019

Department:
Community Development

Attachments:
Ordinance No. 6733
Exhibit A - SMP
Exhibit B - CAO

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Adopt Ordinance No. 6733, relating to the Shoreline Master Program; and amending Chapter 16.10 of the Auburn City Code, and repealing and reenacting Chapter 16.08 of the Auburn City Code.

Background Summary:

The City's Shoreline Master Program (commonly referred to as the "SMP") was last updated in 2009 and initially adopted in 1974. Per RCW 90.58.080, the City is required to periodically update its SMP every eight years in response to changes in State laws and rules since 2009. The SMP governs development that is within 200 ft. of the "ordinary high water mark" of the Green and White Rivers (termed "Shorelines of the State") along with other contiguous areas. Regulation and administration of the SMP is a shared jurisdictional responsibility between the City and the WA State Department of Ecology (Ecology). Upon approval of this Ordinance by the City Council, the SMP would then be forwarded to Ecology for their final approval.
The complete strikeout-underline version of the proposed changes are included as **Exhibit A**.
A copy of the final SMP document will be provided to the City Council after approval from Ecology and final formatting.
In addition to the required SMP updates, the City was also notified by Ecology and the Dept. of Health (DOH) that changes to the City's Critical Areas Ordinance, Chapter 16.10 ACC (sometimes referred to as the "CAO") were needed. The complete strikeout-underline version of the proposed changes are included as **Exhibit B**.
Planning Commission Review:
Beginning in July of 2018, the Planning Commission (PC) participated in discussions with City Staff on the proposed updates on ten separate occasions. The documentation from these meetings have been available on the City's dedicated SMP update webpage at www.auburnwa.gov/smp as well as within the PC agenda packets.
Public Participation:
An early notice of updates to the SMP was distributed to stakeholders as identified in the Public Participation Plan (dated 10/10/2018), no comments were received. A combined SEPA Determination of Non-Significance (DNS), joint State (Ecology) and local request for public comments, and notice of public hearing was distributed on August 13, 2019 (City File No. SEP18-0026), with no comments received. In addition, the public notice was posted on

the City's website as well as on the City's Facebook page.

Reviewed by Council Committees:

Councilmember:	DaCorsi	**Staff:**	Tate
Meeting Date:	November 4, 2019	Item Number:	ORD.A

ORDINANCE NO. 6733

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATED TO THE SHORELINE MASTER PROGRAM; AND AMENDING CHAPTER 16.10 OF THE AUBURN CITY CODE, AND REPEALING AND REENACTING CHAPTER 16.08 OF THE AUBURN CITY CODE

WHEREAS, the Washington State Legislature has mandated that the City periodically review its Shoreline Master Program (SMP) and update it as necessary pursuant to the Shoreline Management Act (SMA), Chapter 90.58 RCW, and the Shoreline Master Program Guidelines, WAC 173-26; and

WHEREAS, the Department of Ecology (Ecology) reviewed the City's proposed SMP changes and notified the City that changes to the Critical Areas Ordinance (CAO), Chapter 16.10 ACC, were also needed for consistency with current Best Available Science (BAS) for streams, wetlands, and their buffers. In addition the Department of Health (DOH) recommended that the City's Critical Aquifer Recharge Areas regulations be updated to reflect current State rules and regulations; and

WHEREAS, a SEPA Determination of Nonsignificance (DNS) was issued on August 13, 2019 for the proposed SMP and CAO updates; and

WHEREAS, the SMP and CAO updates have consisted of a joint review process with Ecology pursuant to WAC 173-26-104. The process involved outreach to and consultation with other agencies, tribes, and other interested groups. A joint public comment period was also held with Ecology from August 13, 2019 through September 12, 2019. No comments were received; and

WHEREAS, the City notified the Washington State Department of Commerce of the proposed amendments, per RCW 36.70A.106, on July 25, 2019 (for the SMP) and July 22, 2019 (for the CAO). No comments were received; and

WHEREAS, the Planning Commission held a joint public hearing with Ecology on October 8, 2019 and recommended adoption of the proposed updates to the City Council.

WHEREAS, the Growth Management Act in RCW 36.70A.480 provides that the goals and policies of a local SMP shall be considered an element of a local government's comprehensive plan; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Amendment of the Shoreline Master Program. The City's Shoreline Master Program (SMP) is amended to read as shown in Exhibit A of this Ordinance, and an amended copy shall be on file with the office of the City Clerk.

Section 2. Amendment to City Code. Chapter 16.08 of the Auburn City Code, Shoreline Management Administrative and Permitting Procedures, is repealed in its entity and replaced with the following section:

"16.08.010 The Shoreline Management Administrative and Permitting Procedures are uncodified and can be found in City's Shoreline Master Program, Ordinance 6733, and on file in the office of the City Clerk".

Section 3. Amendment to City Code. Chapter 16.10 of the Auburn City Code, Critical Areas, is amended to read as shown in Exhibit B of this Ordinance.

Section 4. Submission to Department of Ecology. The Director of Community Development shall submit, according to RCW 90.58, the amended Shoreline

Master Program and associated documents to the Department of Ecology for its review and approval prior to formal adoption.

Section 5. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 6. Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

Section 7. Effective date. Sections 1 and 2 of this Ordinance shall be effective and in force 14 days after the notice date of the Department of Ecology final action, as provided by RCW 90.58.090(7). Section 3 shall be effective and in force five days from and after the passage, approval, and publication of this Ordinance as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

Published: _____

Auburn Shoreline Master Program

~~**Notice:** The Auburn City Council adopted the updated Auburn Shoreline Master Program (SMP) on June 2, 2008, Ordinance number 6095. The SMP update was completed with the assistance of SMA Grant No. G060103. In accordance with RCW 90.58, the State Shoreline Management Act, the City Council adopted SMP must be forwarded to the Washington State Department of Ecology for final review and approval prior to becoming effective. The 1974 City of Auburn Shoreline Management Master Program remains in effect until such time that Department of Ecology approval of the Auburn SMP update is issued.~~

CITY OF AUBURN WASHINGTON

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~~Appendix A. Critical Area Provisions in Shoreline Jurisdiction (Applicable Sections of ACC Chapter)~~

~~Appendix B. ACC Chapter Nonconforming Structures, Land and Uses~~

~~Appendix C. Geologic Hazard Report Submittal Requirements~~

~~Appendix D. Permit Data Sheet~~

Preface

Washington's Shoreline Management Act (SMA) was passed by the State Legislature in 1971 and adopted by the public in a referendum. -The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. -The goal of the SMA was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." -While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The SMA has three broad policies:

1. Encourage water-dependent and water-oriented uses: "...uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines.....~~.~~"

2. Promote public access: "...the public's opportunity to enjoy the physical and aesthetic qualities of natural ~~s~~Shorelines of the ~~s~~State shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

3. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life.....~~.~~"

Under the SMA, the shoreline jurisdiction includes areas that are 200 feet landward of the ordinary high water mark (OHWM) of waters that have been designated as "~~s~~Shorelines of ~~s~~Statewide ~~s~~Significance" or "~~s~~Shorelines of the ~~s~~State" and their adjacent shorelands, defined as the upland area within 200 feet of the OHWM, as well as any associated wetlands (RCW 90.58.030). -Two waterbodies in Auburn, the Green River and White River, are regulated under the SMA and the City's Shoreline Master Program (SMP). -The Green and White Rivers are both designated as "~~s~~Shorelines of ~~s~~Statewide ~~s~~Significance."

The primary responsibility for administering the SMA is assigned to local governments through the mechanism of local shoreline master programs, adopted under guidelines established by Ecology. -The guidelines (WAC 173-26) establish goals and policies that provide a framework for development standards and use regulations in the shoreline. -The SMP is based on state guidelines but tailored to the specific conditions and needs of individual communities. -The SMP is also meant to be a comprehensive vision of how the shoreline area will be managed over time.

The City of Auburn adopted its first Shoreline Management Master Program on January 21, 1974. -The SMP provides both policies and regulations to govern development and other activities in the City's shorelines. -The City~~'s municipal c~~Code also regulates shoreline development by requiring shoreline substantial development permits. -Chapter 16.08 of the ~~city code~~City Code provides guidelines for issuance of shoreline permits that implement the ~~s~~State SMA.

In 2003, the ~~s~~State ~~l~~Legislature established funding, timelines, and guidelines requiring all cities and counties to update their SMP. -The City of Auburn ~~has~~ conducted a comprehensive SMP update with the assistance of a grant administered by the Washington State Department of Ecology (SMA Grant No. G0600103). The update ~~h~~was ~~been~~ prepared consistent with the SMA and its implementing guidelines. The City's SMP provides goals, policies, development regulations, and permitting procedures for "~~s~~Shorelines of the ~~s~~State" in the ~~city~~City of Auburn.

Consistent with state guidelines (WAC 173-26-201, Comprehensive Process to Prepare or Amend Shoreline Master Programs) ~~a~~the first step in the comprehensive Master Program update process ~~i~~was development of a shoreline inventory and characterization. The inventory and characterization document~~s~~ed ~~current~~ shoreline conditions and provide~~s~~d a basis for updating the City's Master Program goals, policies, and regulations. -The characterization identifie~~s~~d existing conditions, evaluate~~s~~d existing functions and values of shoreline resources, and explore~~s~~d opportunities for conservation and restoration of ecological functions.

State guidelines also required that local governments develop Master Program policies that promote "restoration" of damaged shoreline ecological functions and develop a "real and meaningful" strategy to implement restoration objectives.- Planning for shoreline restoration includes identifying opportunities (both programmatic and site-specific), establishing goals and policies, working cooperatively with other regional entities, and supporting restoration through other regulatory and non-regulatory programs.

During the development of the SMP update, which was adopted by the City Council on April 20, 2009 (Ordinance No. 6235), the City worked with a Citizen's Advisory Committee for several months. -Special thanks ~~go~~went out to Committee members Don Payne, Terry Bonini, Planning Commissioner Judy Roland, Mark Hancock, Ex-Councilmember Fred Poe, Sandra Lange, and Julie Herren.

RCW 90.58.080 and WAC 173-26-090 require the City to do a periodic update of the SMP every eight years with the first update due in 2019 and then every eight years thereafter. The update directs the City to review, and, if necessary, revise the SMP based on changes in local circumstances, new information or improved data.

The City received a grant administered by the Washington State Department of Ecology (SMA Grant No. SEASMP-1719-ACDPWD-00027) for up to $25,000 to assist with this update. The City used those funds to hire The Watershed Company to assist with this update. City Staff worked with the Planning Commission beginning in July of 2018 until a recommendation was made to the City Council on October, 8, 2019. The City Council adopted the SMP on November, 5, 2019 (Ordinance No. 6733) and final approval from the Department of Ecology was received on xxx, xx, 2019.

A special thanks goes out to those who helped and participated in the 2019 periodic update of the SMP:

Mayor:	Nancy Backus		
City Council:	Largo Wales	**Planning Commission:**	Judy Roland
	Claude DaCorsi		Joan Mason
	Bill Peloza		Roger Lee
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	John Holman		Phillip Stephens
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CHAPTER 1.0 Definitions

1.1 Interpretation.

Unless the context in which a word is used clearly implies to the contrary, the following definitions shall apply to the City of Auburn Shoreline Master Program. ~~Footnote numbers for each definition refer to the source of the definition according to the following key: 1. Washington Administrative Code (WAC - sections applicable to the Shoreline Management Act); 2. Revised Code of Washington (RCW , Shoreline Management Act); 3. Auburn City Code (definition appears elsewhere in ACC); 4. Auburn's 1973 SMP; and 5. Definition included as part of 2006-2009 SMP Update.~~

1.2 Definitions.

"Accessory Structure[5]" means a structure, either attached or detached, from a principal or main building and located on the same lot and which is customarily incidental and subordinate to the principal building or use.

"Agriculture[1]"

A. "Agricultural ~~a~~Activities[1]" means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

B. "Agricultural ~~p~~Products[1]" includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; ~~Christmas~~ holiday trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

C. "Agricultural ~~e~~Equipment[1]" and "~~a~~Agricultural ~~f~~Facilities[1]" includes, but is not limited to:

1. The following used in agricultural operations: ~~E~~equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

2. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

3. Farm residences and associated equipment, lands, and facilities; and

4. Roadside stands and on-farm markets for marketing fruit or vegetables; and

D. "Agricultural ~~l~~Land[1, 5]" means those specific land areas on which agricultural activities have been in existence as of July 1, 1990 (the effective date of the Growth Management Act) as evidenced by aerial photography or other documentation.

"Agricultural ~~a~~Activities, ~~e~~Existing and ~~o~~Ongoing[5]" means those activities conducted on agricultural lands, and those activities involved in the production of crops and livestock. Such activity must have been in existence as of July 1, 1990 (the effective date of the Growth Management Act). The definition includes, but is not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities or crops, and normal operation, maintenance or repair of existing serviceable structures, facilities, or improved areas. Activities, which bring an area into agricultural use from a previous nonagricultural use, are not considered part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition.

"Aquaculture[5]" is the farming or culturing of fishery resources in freshwater areas which may require development of fish hatcheries, rearing pens, and structures, as well as use of natural spawning and rearing areas. Activities include the hatching, cultivating, feeding, and raising of fisheries and the maintenance and construction of necessary equipment, buildings and growing areas.

"Associated Wetlands[1]" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

"Best Management Practices[5]" means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
2. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;
3. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

"Bioengineering[1]" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

"Boat Launching Ramps[5]" are areas developed for boating ingress and egress.

"Boat ~~h~~House[5]" means a covered or enclosed moorage space. For the purpose of this section, boathouses are accessory to a residential use and may be located on water or on land.

"Breakwater[5]" means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors,

moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

"Buffer Strip[5]" means an area of land which: (A) serves to reduce the adverse impacts between land uses of different intensities or (B) serves to separate or identify transitions between land uses of the same intensity.

"Bulkhead[5]" means vertical structures erected parallel to and near the ~~ordinary high water mark~~OHWM for the purpose of protecting adjacent uplands from erosion, other than newly created residential land, from the action of waves or currents.

"Channel ~~m~~Migration ~~z~~Zone (CMZ)[1]" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

"Channelization[5]" means the straightening, deepening, or widening of a stream channel for the purpose of increasing the stream's carrying capacity.

"City[5]" means the City of Auburn.

"Commercial ~~d~~Developments[5]" ~~are~~ means those uses involved in wholesale~~,~~ ~~and~~ retail, service, ~~trade~~ or business ~~activities, including professional offices~~trade.

"Community Pier or Dock[5]" means a pier or dock including a gangway and/or float which is intended for use in common by lot owners or residents of a subdivision or residential planned development district.

"Conditional Use, Shoreline[1]" means a use, development, or substantial development which is classified as a conditional use or is not classified within the ~~m~~Master ~~p~~Program.

"Critical Areas[5]" means wetlands, streams, flood hazard areas, fish and wildlife areas, aquifer recharge areas, and geologically hazardous areas as defined and designated by the Critical Areas Ordinance (~~ACC~~ Chapter 16.10 ACC~~, Ordinance No.5894~~).

"Critical Freshwater Habitats[5]" mean habitat areas associated with ~~s~~Shorelines of the ~~s~~State and associated with threatened, endangered, or sensitive species of plants or wildlife ~~(pursuant to WAC 232-12-297 Sections 2.4, 2.5 and 2.6)~~ and which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term.

"Dedication[5]" means the designation of land by its owner for any general and public uses, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

"Department[1]" means the Washington State Department of Ecology.

"Development[1]" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

"Development" does not include dismantling or removing structures if there is no other associated development or redevelopment.

"Director[5]" means the Community Development Director ~~of Planning, Building, and Community Department~~ for the City of Auburn or his/her assigned designee.

"Dock[1, 5]" means a structure that abuts the shoreline and floats upon the water and is used as a landing or moorage place for recreational purposes.

"Dredging[5]" is the removal of material from the bottom of a stream, river or other water body.

"Dry Well[5]" means a pit filled with coarse rock or lined with crushed rock or gravel for use as a storm disposal method.

"Dune ~~m~~Modification[1]" means the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration.

"Educational and ~~a~~Archeological ~~s~~Sites and ~~h~~Historical ~~a~~Areas[5]" include significant archeological sites or excavations, old settler homes, historic trails, non-commercial interpretive centers (i.e., public or nonprofit), or any other educationally significant site, facility, or structures.

"Environmental ~~r~~Remediation[5]" consists of actions taken to identify, eliminate or minimize any threat posed by hazardous substances to human health or the environment. Such actions include any investigative, site remediation, and monitoring activities undertaken with respect to any release or threatened release of a hazardous substance.

"Fill[1]" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

"Float[5]" means a structure comprised of a number of logs, boards, barrels, etc., fastened together into a platform capable of floating on water, used as a landing or moorage structure for swimming purposes. Floats are either attached to a pier or are anchored to the bed lands so as to allow free movement up or down with the rising or falling water levels.

"Flood ~~h~~Hazard ~~r~~Reduction[1]" activities include actions taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

"Flood Hazard Zone[5]" means an area inundated by the 100-year flood.

"Floodplain[1]" is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this

area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

"Floodway Fringe[5]" means the area outside the floodway but still in the flood hazard zone.

"Floodway[5]" means ~~those portions of~~ the area ~~of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition~~that has been established in effective Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) or floodway maps. The floodway ~~shall~~ does not include ~~those~~ lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

"Forest Land[~~1, 5~~]" means all land that is capable of supporting a merchantable stand of timber and is not being actively used, developed, or converted in a manner that is incompatible with timber production.

"Forest Practices[~~1, 5~~]" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing of timber; including, but not limited to: (1) road and trail construction, (2) fertilization, (3) prevention and suppression of diseases and insects; or other activities that qualify as a use or development subject to the Act. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020.

Excluded from this definition is preparatory work such as tree marking, surveying and removal of incidental vegetation such as berries, greenery, or other natural products whose removal cannot normally be expected to result in damage to shoreline natural features. Also excluded from this definition is preparatory work associated with the conversion of land for non-forestry uses and developments. Log storage away from forest land is considered Industrial.

"Gangway[5]" means a sloping structure that provides access from a pier to a float.

"Grading[1]" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

"Groin[5]" means a barrier type structure extending from back shore into the water, the purpose of which is to interrupt sediment movement along the shore.

"Guidelines[5]" means those guidelines adopted pursuant to the Shorelines Management Act of 1971.

"Habitat ~~i~~Improvement[5]" means any actions taken to intentionally improve the overall processes, functions and values of critical habitats, including wetland, stream and aquatic habitats. Such actions may or may not be in conjunction with a specific development proposal and include, but are not limited to, restoration, creation, enhancement, preservation, acquisition, maintenance and monitoring.

"Hazardous Substances[1]" means those wastes designated by WAC 173-340-200, and regulated as hazardous substances by the Department of Ecology.

"Hearing Examiner[5]" means the officer appointed by the City of Auburn City Council to review and approve or deny applications for substantial development, conditional use, variance and expansion of nonconforming use permits.

"Hearings Board[2]" means the shorelines hearings board established by the Shoreline Management Act of 1971.

"Height[1]" means a measurement from average grade level to the highest point of a structure: provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the ~~m~~Master ~~p~~Program specifically requires that such appurtenances be included: provided further, that temporary construction equipment is excluded in this calculation.

"Home~~-~~ ~~b~~Based ~~d~~Daycare[3] " means a licensed daycare that regularly provides daycare for not more than 12 children or adults in the provider's home in the family living quarters, for periods of less than 24 hours.

"Impervious Surface[5]" means those surfaces that do not allow the downward passage of water.

"Industrial ~~d~~Development[3, 5]" means facilities for manufacturing, assembling, fabricating, processing, and storage of finished or semi-finished goods, including but not limited to basic wood processing, enameling, galvanizing and electroplating, heavy equipment and truck repair, lumber yards, motor freight terminals and transportation, warehousing and distribution facilities, construction contractors services and material/equipment storage yards, wholesale trade, and log storage, together with necessary accessory uses such as parking and loading. Excluded from this definition are mining, including on-site processing of raw materials, solid waste storage and transfer facilities, primary utilities, and road or railway development.

"In-~~s~~Stream Structural Uses[1]" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

"Interpretive Center[5]" means a facility containing artifacts, history and information about a site in the immediate area.

"Jetties[5]" means structures that are generally perpendicular to shore extending through or past the intertidal zone. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches.

"Joint Use Pier or Dock[5]" means a pier or dock including a gangway and/or float which is intended for the private, noncommercial use of not more than four waterfront building lot owners. Properties using a joint use pier or dock must be within 1,000 feet of the boundary of the lot on which the joint use pier or dock is to be constructed.

"Landfill[~~1, 5~~]" is the creation of dry upland area by filling or depositing of sand, soil or gravel into a shoreland/shoreline area.

"Launching Ramps[5]" means areas solely developed for boating ingress and egress.

"Levee, Dike[5]" means a broad embankment of earth built parallel with the river channel to contain flow within the channel.

"Linear Access[5]" means a trail, path, road, or launching ramp by which the public can travel to and along publicly owned water. Recreational activities such as swimming, hiking, shore fishing, hunting and picnicking are typical activities requiring linear access.

"Maintenance Dredging[~~1, 5~~]" means dredging for the purpose of maintaining a prescribed minimum depth of any specific waterway project.

"Master Program[4]" means the comprehensive ~~s~~Shoreline ~~m~~Master ~~p~~Program for the City of Auburn, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

"May[~~1~~]" means the action is acceptable, provided it conforms to the provisions of WAC 173-26 and this SMP.

"Mineral Resource Lands[~~1~~]" means lands primarily devoted to the extraction of minerals or that have known or potential long-term commercial significance for the extraction of minerals.

"Mining[5]" means the removal of naturally occurring materials from the earth for economic uses pursuant to Chapter 78.44 RCW and Chapter 332-18 RCW.

"No Net Loss[5]" means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions that are necessary to sustain shoreline natural resources. The standard is met when proposed uses or developments are in compliance with the provisions of this ~~m~~Master ~~p~~Program. In cases where unavoidable loss results from allowed uses or developments, the standard is met through appropriate mitigation, consistent with the provisions of this ~~m~~Master ~~p~~Program.

"Nonconforming Use ~~and Development~~[~~1~~]" means an existing shoreline use ~~or development which~~ that was lawfully ~~constructed or~~ established prior to the effective date of the act or the applicable master program ~~or amendments thereto~~, but which does not conf~~i~~orm to present use regulations ~~or standards~~ due to subsequent changes to~~of~~ the master program.

"Nonconforming Development" or "Nonconforming Structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

"Nonconforming Lot" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

"Non-water Related Uses[5]" means those uses which do not need a waterfront location to operate though easements or utility corridors for access to the water may be desired.

"Normal Maintenance[1]" means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. (See also, "Normal repair".)

"Normal Repair[1, 5]" means to restore a development to a state comparable to its original condition within a reasonable period of decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. (See also, Normal maintenance".)

"One Hundred Year Flood Plain[5]" means lowlands adjoining the channel of a water body that would be covered by floodwaters of a flood having an average frequency of occurrence in the order of once in 100 years although the flood may occur in any year.

"One Hundred Year Flood[5]" means a flood that has a magnitude that may be equaled or exceeded once every one hundred years on the average.

"Ordinary High Water Mark (OHWM)[2]" on all lakes, streams, and river water is that mark found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this Chapter or as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology. Provided, that in any area where the ~~ordinary high water mark~~OHWM cannot be found, the ~~ordinary high water mark~~OHWM adjoining fresh water shall be the line of mean high water.

"Outfall[5]" means the outlet or place of discharge of a stormwater collection or sanitary sewer system.

"Permit[1]" means a Substantial Development Permit, ~~s~~Shoreline ~~c~~Conditional ~~u~~Use ~~p~~Permit, or ~~s~~Shoreline ~~v~~Variance issued in compliance with the Shoreline Management Act of 1971 and the Shoreline Master Program for City of Auburn.

"Person[5]" means an individual, partnership, corporation, association, organization, cooperative, public or Municipal Corporation, or agency of the state or local governmental unit however designated.

"Pier[5]" means a structure that abuts the shoreline and is built over the water on pilings and is used as a landing or moorage place for recreational purposes.

"Point Access[5]" means a trail, path, road, or launching ramp by which the general public can travel from a public road to a point of view or to a place suitable for launching a boat. Recreational activities such as motor boat launching, canoeing, kayaking, rafting and viewing of scenic vistas are typical recreational activities requiring point access.

"Private Recreational Pier or Dock[5]" shall mean a pier or dock including a gangway and/or float which is owned and maintained by a private group, club, association or other organization and is intended for use by its members.

"Priority Habitat[1]" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haul-out; refugia habitat; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

"Priority Species[1]" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

"Priority ~~u~~Use[5]" means those shoreline uses given priority over other uses by the policies in the Shoreline Management Ace, such as water-dependent uses and uses providing public access to the state's shorelines.

"Public ~~a~~Access[5]" means the protection of the public's right to use navigable waters and the provision of both physical and visual access to and from the water.

"Public Recreational Pier or Dock[5]" means a pier or dock including a gangway and/or float either publicly or privately owned and maintained, intended for use by the general public for recreational purposes, but not to include docks constructed as part of a marina.

"Qualified consultant," for purposes of these regulations, shall mean a person who has attained a degree from an accredited college or university in the subject matter necessary to evaluate the critical area in question (e.g., biology, ecology, or horticulture/arboriculture for wetlands, streams, wildlife habitat, and geology and/or civil engineering for geologic hazards, and hydrogeologist for ground water protection areas), and/or who is professionally trained and/or certified or licensed by the state of Washington to practice in the scientific disciplines necessary to identify, evaluate, manage, and mitigate impacts to the critical area in question. In addition, a qualified consultant for wetlands and streams must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetland reports, conducting function assessments, and development and implementing mitigation plans.

"Railroad[5]" means a linear passageway for the movement of train passengers or freight.

"Recreation[5]" means the refreshment of body and mind through forms of play, amusement or relaxation. This section applies to publicly and privately owned recreational facilities intended for use

either by the public or a private club, group, or association. NOTE: (Certain water dependent uses such as Piers, Docks and Floats, and Boat Launch Facilities addressed separately in the shoreline use regulations under those titles.)

"Residential[~~3, 5~~]" development shall mean one or more buildings or structures or portions thereof which are designed for and used to provide a place of abode for human beings, including one and two family detached dwellings, multi-family residences, row houses, townhouses, mobile home parks and other similar group housing, together with accessory uses and structures normally common to residential uses including but not limited to garages, sheds, upland boat storage facilities, tennis courts, and swimming pools. Residential development includes the creation of new residential lots through land division. Residential development shall not include hotels, motels, or other transient housing or camping facilities.

"Restoration[~~1~~]" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

"Revetments[5]" means sloping structures built to increase bank strength and protect a scarp, embankment, or shore against erosion by waves or currents. A revetment is usually built of rock rip-rap, wood, or poured concrete. One or more filter layers of smaller rock or filter cloth and "toe" protection. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead, which is a vertical structure.

"Riprap[5]" means broken stone placed on shoulders, banks, slopes, or other such places to protect them from erosion.

"Road[5]" means a linear passageway, usually for motor vehicles. Bridges are roads which cross over water.

"Shall[~~1~~]" means a mandate; the action must be done.

"Shorelands" or "Shoreland Areas[~~2~~]" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ~~ordinary high water mark~~OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and river waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. Any county or ~~city~~City may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet there from;

"Shoreline Areas" and "Shoreline Jurisdiction[~~1~~]" means all "~~s~~Shorelines of the ~~s~~State" and "shorelands" as defined in this ~~m~~Master ~~p~~Program and RCW 90.58.030.

"Shoreline Habitat and Natural Systems Enhancement Projects[~~1~~]" means projects which include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

"Shoreline Modifications[1]" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

"Shorelines of Statewide Significance[2]" means those shorelines described in RCW 90.58.030(2)(f).

"Shorelines[2]" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

"Shoreline Stabilization[5]" means actions taken to protect riverbanks or adjacent uplands from erosion resulting from the action of waves or river currents. "Hard" structural stabilization includes bulkheads and revetments. "Soft" shoreline stabilization includes use of bioengineering measures where vegetation, logs, and/or rock is used to address erosion control and/or slope stability.

"Shoreline Stabilization, new[~~1, 5~~]" means the construction of hard or soft shoreline stabilization measures along a property abutting the shoreline that does not have an existing shoreline stabilization measure. Adding to an existing shoreline stabilization structure or increasing the size of an existing shoreline stabilization structure are also considered new shoreline stabilization structures.

"Shoreline Stabilization, replacement[1]" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

"Should[1]" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

"Sign, Informational[5]" means a sign designed to guide or direct pedestrians or vehicles.

"Sign, Warning[5]" means a sign designed to warn pedestrians or vehicles of some imminent danger.

"Sign[~~3, 5~~]" means any device, structure, fixture or placard that is visible from any public right-of-way or surrounding properties and uses graphics, symbols or written copy for the purpose of advertising or identifying any establishment, product, goods, or service.

"Signs[5]" are public displays whose purpose is to provide information, direction, or advertising.

"Single Use Pier or Dock[5]" means a dock or pier including a gangway and/or float intended for the private noncommercial use of one individual or family.

"Single-family Residence[1]" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ~~ordinary high water mark~~OHWM and the perimeter of a wetland. On a state-wide basis, normal appurtenances include a garage; deck; driveway; utilities; fences;

installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ~~ordinary high water mark~~OHWM. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ~~ordinary high water mark~~OHWM.

"Solid ~~w~~Waste ~~d~~Disposal[5]" is the disposal of garbage, refuse and solid waste materials resulting from domestic, agricultural and industrial activities, construction and demolition debris.

"Streamway[5]" means the corridor of a single or multiple channel or channels, within which the usual seasonal or storm water runoff peaks are contained where the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

"Substantial Development[2]" shall mean any development of which the total cost or fair market value exceeds ~~five~~ seven thousand ~~seven hundred~~ and ~~eighteen~~ forty-seven dollars ($7,047) (or the value as amended or adjusted for inflation per WAC 173-27-040(2)(a) / RCW 90.58.030-(3)-(e)) or any development which materially interferes with the normal public use of the water or ~~s~~Shorelines of the ~~s~~State; except that the following shall not be considered substantial developments for the purpose of this chapter:

A. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

B. Emergency construction necessary to protect property from damage by the elements;

C. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

D. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

~~E. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if: in fresh waters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding five thousand dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;~~

~~F.~~E. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary

purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

~~G.~~F. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

~~H.~~G. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

~~I.~~H. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

1. The activity does not interfere with the normal public use of the surface waters;

2. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

3. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

5. The activity is not subject to the permit requirements of RCW 90.58.550.

~~J.~~I. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under Chapter 43.21C RCW.

~~K.~~J. Watershed restoration projects as defined herein. The City shall review the projects for consistency with the ~~s~~Shoreline ~~m~~Master ~~p~~Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

"Supportive ~~h~~Housing[3]" means a multi~~ple~~-family dwelling owned or sponsored by a nonprofit corporation or government entity, designed for occupancy by individual adults that are either (A) homeless or at risk of homelessness; (B) are experiencing a disability that presents barriers to employment and housing stability; or (C) generally require structured supportive services to be successful living in the community; is permitted at a greater unit density than otherwise allowed within a particular zone; and is intended to provide long-term, rather than transitional, housing. Long-term housing is approximately longer than two years, whereas transitional housing is no more than 18 months.

"Utilities, Primary[5]" are facilities which produce, store, collect, treat, carry, discharge, or transmit electric power, water, storm drainage, gas, sewage, reclaimed water, communications, or other public

services. Accessory utility facilities are those associated with delivery of such public services to support individual uses and developments, such as distribution or service lines.

"Variance, Shoreline[1]" means a grant of relief from the specific bulk, dimensional, or performance standards set forth in the applicable master program and not a means to vary a use of the shoreline.

"Vegetation ~~c~~Conservation[1]" includes activities to protect and restore vegetation along or near shorelines that minimize habitat loss and the impact of invasive plants, erosion and flooding and contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species. Vegetation management provisions apply even to those shorelines and uses that are exempt from a permit requirement.

"Water Dependent Uses[~~1, 5~~]" means a use or portion of a use which requires direct contact with the water and which cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of the operation. Some examples of water dependent uses include fishing piers and reserves which allow biological systems to continue in a natural undisturbed manner, environmental remediation, and habitat improvement projects.

"Water Enjoyment Use[1]" means those uses which provide for recreation involving the water or facilitates public access to the shoreline as the primary characteristic of the use, or a use which provides for aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and, through location, design and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. To qualify as water enjoyment, a use must be open to the general public and the waterward side of the project must be devoted to provisions that accommodate public enjoyment, and the project must meet the Shoreline Master Program public access requirements. Some examples of water-enjoyment uses include viewing towers, parks, and educational/scientific reserves.

"Water Oriented Uses[1]" means any water dependent, water-related, or water enjoyment use.

"Water Related Uses[1]" means those uses which are not intrinsically dependent on a waterfront location to continue their operation, but whose operation cannot occur economically at this time, without a shoreline location. Examples include a seafood processing plant and warehouses for goods transported by water.

"Watershed ~~r~~Restoration ~~p~~Plan[1]" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a ~~city~~City, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to ~~c~~Chapter 43.21C RCW, the State Environmental Policy Act;

A. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

1. The project has been approved in writing by the department of fish and wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;

2. The project has received hydraulic project approval by the department of fish and wildlife pursuant to ~~c~~Chapter ~~75~~7.~~20~~55 RCW; and

3. The local government has determined that the project is consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

B. Hazardous substance remedial actions. The procedural requirements of Chapter 90.58 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to ~~c~~Chapter 70.105D RCW or to the ~~d~~Department of ~~e~~Ecology when it conducts a remedial action under ~~c~~Chapter 70.105D RCW. The department shall, in consultation with the appropriate local government, assure that such projects comply with the substantive requirements of ~~c~~Chapter 90.58 RCW, ~~c~~Chapter 173-26 WAC and the local master program.

"Watershed ~~r~~Restoration ~~p~~Project[1]" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

A. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

B. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

C. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or in-stream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ~~ordinary high water mark~~OHWM of the stream.

"Weirs[5]" means a structure in a stream or river for measuring or regulating stream flow.

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

~~"Width[5]" means the width of a pier or dock at its widest point measured parallel to the shoreline or the combined width of a pier, dock, and any attached structures such as a float at the widest point.~~

Unlisted words and phrases.

The definition of any word or phrase not listed in this SMP which is in question when administering this regulation shall be defined from one of the following sources which are incorporated herein by reference. Said sources shall be utilized by finding the desired definition from source number one, but if it is not available there, then source number two may be used and so on. The sources are as follows:

A. City development regulations;

B. Any ~~city~~City resolution, ordinance, code or regulation~~s~~;

C. Any statute or regulation of the state of Washington (i.e., the most applicable);

D. Legal definitions from case law or a law dictionary;

E. The common dictionary.

CHAPTER 2.0 Shoreline Master Program Elements:

2.1 Economic Development Element

The Economic Development element addresses the location and design of industries, tourist facilities and commercial and other developments that are particularly dependent on shoreline locations.

2.1.1 Goals:

1. Proposed shoreline uses shall be located and developed in a manner that will maintain or improve the health, safety and welfare of the public.
2. Develop, as an economic asset, recreation opportunities and amenities in a manner that will promote and enhance the public enjoyment of the shorelines.
3. Economic activity along the shorelines shall protect the quality of the site's environment or adjacent shorelines.

2.2 Public Access Element

The Public Access element addresses the need for providing public access to shoreline areas.

2.2.1 Goals:

1. Provide new and enhance existing public access to the shoreline environment.
2. Create public access to the rivers through the park and trail system that will not endanger life or property, nor impair the rights of private property owners on the shorelines.
3. Create public access to the rivers in a manner that will not impair the natural and ecological systems of the shorelines.

2.3 Circulation Element

The Circulation element addresses the location and extent of existing and proposed major thoroughfares, transportation routes and other public transportation-related facilities and correlates those facilities with shoreline uses.

2.3.1 Goal:

1. Achieve safe, convenient and diversified circulation systems to provide public access to the shoreline, efficient movement of people and goods, with minimum disruption to the shoreline environment and minimum conflict among shoreline uses.

2.4 Recreation Element

The Recreation element addresses the preservation and expansion of recreational opportunities by means of acquisition, development and by other means.

2.4.1 Goals:

1. Continue to provide a broad and comprehensive public and private recreation system meeting the needs of all age and income groups.
2. Preserve open spaces for passive recreation where more active recreational development and use would be harmful to the shoreline ecology.
3. Encourage the advantageous use of existing natural features and historic resources as a part of the recreation program and facilities.
4. Foster the preservation or enhancement of recreation and open space areas as significant elements of the landscape.
5. Continue to work with King County, Pierce County and other adjacent jurisdictions to encourage preservation and expansion or diversified recreational opportunities for the public on the Green and White Rivers.

2.5 Shoreline Use Element

The Shoreline Use Element addresses the derived patterns of land use in the shoreline area.

2.5.1 Goals:

1. Promote the best possible pattern of land and water uses that will be most beneficial to the natural and human environments.
2. Designated Shorelines of Statewide Significance are of value to the entire State and shall be managed consistent with this recognition. In order of preference the priorities are to:
    a. Recognize and protect the ~~s~~Statewide interest over local interest;
    b. Preserve the natural character of the shoreline;
    c. Result in long term over short term benefit;
    d. Protect the resources and ecology of the shoreline; and,
    e. Increase public access to publicly owned areas of the shorelines.

2.6 Conservation Element

The Conservation element addresses the preservation of the natural shoreline resources, considering such characteristics as scenic vistas, open space riparian corridors, and other valuable natural or aesthetic features. This element promotes the restoration of shoreline functions and ecological processes along Auburn's shorelines.

2.6.1 Goals:

1. Restore and enhance shoreline habitats and processes on publicly owned lands.
2. Develop regional solutions with other jurisdictions, tribes and interested parties to resolve the challenge of protecting shoreline ecological functions while also protecting shoreline development.

3. Encourage voluntary restoration projects in degraded shoreline environments.
4. Provide ample opportunity for the public to learn about the ecological aspects and community values of the City's shorelines.

2.7 Historical/Cultural Element

The Historical/Cultural Element addresses the protection and restoration of buildings, sites and areas having historic, cultural, educational or scientific value.

2.7.1 Goals:

1. Protect, manage and enhance those characteristics of the shoreline that are unique or have historic significance or aesthetic quality, for the benefit and enjoyment of the public.
2. Protect archaeological, historic and cultural sites and buildings identified on national, state or local historic registers from destruction or alteration, and from encroachment by incompatible uses.
3. Identify such resources during review of proposed development in or near the Green and White Rivers.

2.8 Flood Prevention/Critical Areas Element:

The Flood Protection/Critical Areas Element addresses reducing potential flood hazards and flood damages in the City of Auburn and the protection of critical areas in Auburn's shoreline area.

2.8.1 Goals:

1. Continue to participate in a regional approach to flood protection issues, coordinating with the State of Washington, King County, Pierce County and other entities interested in reducing flood hazards on both the White and Green Rivers.
2. Continue to protect wetlands, streams, wildlife habitat, and groundwater and minimize geologic hazards in the shoreline environment in accordance with the ~~c~~Critical ~~a~~Areas ~~o~~Ordinance.

CHAPTER 3.0 Shoreline Environments

3.1 Purpose

To more effectively plan and manage shoreline resources through the development of a Shoreline Master Program, a system of categorizing shoreline areas through a classification called "Environments" has been used. This system applies appropriate policies and regulations to distinctively different shoreline areas.

The purpose of shoreline environment designations is to differentiate between areas whose geographical, hydrological, topographical, or other features imply differing objectives for the use and future development of the ~~city~~City's shorelines.

The determination as to which designation should be given to any specific shoreline area has been based on, and is reflective of, the existing use pattern; the biological and physical character of the shoreline; the goals and aspirations of the local citizenry; and the criteria in the Shoreline Management Act guidelines (WAC 173-26-211).

Each environment designation represents a particular emphasis in the type of uses and development that should be allowed. The environment designation system is designed to encourage uses in each environment that enhance or are compatible with the character of the environment, while at the same time requiring reasonable standards and restrictions on development so that the character of the environment is not adversely impacted.

Each environment designation category includes: (1) a purpose statement which clarifies the meaning and intent of the designation; (2) criteria to be used as a basis for classifying a specific shoreline area with that environment designation; and (3) general management policies designed to guide management decisions and development consistent with the character of the environment. To accomplish the purpose of this chapter the following shoreline environment designations have been established:

1. Shoreline Residential
2. Urban Conservancy
3. Natural

3.2 Shoreline Residential

3.2.1 Purpose:

The purpose of the "Shoreline Residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

3.2.2 Designation Criteria:

The Shoreline Residential environment designation is appropriate for those areas of the City's shorelines that are characterized predominantly by single-family or multi-family residential development or are planned and platted for residential development.

3.2.3 Management Policies:

The following management policies should apply to all shorelines in the Shoreline Residential Environment:

Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to maintain no net loss of shoreline ecological functions.– Proposed projects should be reviewed for consistency with the no net loss policy, taking into account 1) the environmental limitations and sensitivity of the shoreline area, 2) proposed mitigation for anticipated impacts, 3) the level of infrastructure and services available, and 4) other comprehensive planning considerations.

Multi-family and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities where appropriate.

Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

3.3 Urban Conservancy

3.3.1 Purpose:

The purpose of the “Urban Conservancy” environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses consistent with the Comprehensive Plan.

3.3.2 Designation Criteria:

The Urban Conservancy environment designation is appropriate for those areas planned for development that is compatible with maintaining or restoring of the ecological functions of the area, and that are not generally suitable for intensive water-dependent uses.

3.3.3 Management Policies:

The following management policies should apply to all shorelines in the Urban Conservancy Environment:

1. Primary allowed uses and their associated development standards should preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands where they exist in urban and developed settings, either directly or over the long term. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
2. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
4. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas with commercial development or adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

5. Existing mining and related activities may be an appropriate use within the urban conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241-(3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070. No new mining uses or expansion of existing mines should be permitted within the shoreline jurisdiction.

3.4 Natural

3.4.1 Purpose:

The purpose of the "Natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that would become irreversibly impaired as a result of human development and activity. These systems require that only very low intensity uses be allowed in order to maintain ecological functions and ecosystem-wide processes.– Consistent with the policies of the designation, the City of Auburn should include planning for restoration of degraded shorelines within this environment.

3.4.2 Designation Criteria:

The “Natural” environment designation should be assigned to shoreline areas if any of the following characteristics apply: (A) The shoreline is ecologically intact (as described in WAC 173-26-211(5)(a)(iii)) and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity; (B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or (C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

3.4.3 Management Policies:

The following management policies should apply to all shoreline areas classified as Natural Environments:

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.
2. The following new uses should not be allowed in the "Natural" environment:
    a. Commercial uses.
    b. Industrial uses.
    c. Non-water-oriented recreation.
    d. Roads, utility corridors, and parking areas that can be reasonably located outside of "Natural" designated shorelines.
3. Single-family residential use may be allowed on properties designated as "Natural" if the density and lot configuration can accommodate such use by maintaining portions of the property in shoreline jurisdiction in a natural condition, consistent with the purpose of the environment.
4. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

5. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

3.5 Shoreline ~~e~~Environment ~~d~~Descriptions, ~~m~~Map, and ~~b~~Boundaries.

A. The following "Shoreline Environment Descriptions" shall constitute the official descriptions of the limits of all ~~city~~City shorelands as defined by RCW 90.58.030. Official maps prepared pursuant to Chapter 173-26 WAC are on file with the City and included as Exhibit A to the Master Program.

B. Shoreline Environment Descriptions.– Descriptions for each river are described generally from upstream to downstream limits within the ~~city~~City.– The use of "left bank" and "right bank" refers to facing downstream. Uses or activities (i.e. utility lines, boating facilities, aquaculture, in-stream structures, and transportation facilities) that extend waterward of the OHWM would be governed by the associated upland shoreline environment designation. The Shoreline Environment Designations maps in Exhibit A indicate the shoreline environment designation for the White and Green Rivers.

Green River

1. Natural.

   a. Left bank, limits of shoreline jurisdiction within the ~~city~~City limits in the NW and NE quarters, Section 27, Township 21 N, Range 5 E, Willamette Meridian.

   b. Right bank, limits of shoreline jurisdiction within the ~~city~~City limits in the SE quarter, Section 17, Township 21 N, Range 5 E, Willamette Meridian.

2. Urban Conservancy.

   a. Left bank, limits of shoreline jurisdiction within the ~~city~~City limits, from the boundary between the SE and SW quarters, Section 17, Township 21 N, Range 5 E, Willamette Meridian to 2nd Street SE.

   b. Right bank, limits of shoreline jurisdiction within the ~~city~~City limits in the NW quarter, Section 17, Township 21 N, Range 5 E, Willamette Meridian to the northern ~~city~~City limits.

   c. Left bank, from 26th Street NE to the northern ~~city~~City limits.

3. Shoreline Residential.

   a. Left bank, from 2nd Street SE to 26th Street NE.

White River

1. Natural.

a. Left bank, limits of shoreline jurisdiction from southern ~~city~~City limits to the boundary between Sections 28 and 29, Township 21 N, Range 5 E, Willamette Meridian.

b. Right bank, limits of shoreline jurisdiction from southern ~~city~~City limits to the boundary between the NE and NW quarters of Section 28, Township 21 N, Range 5 E, Willamette Meridian.

2. Urban Conservancy.

a. Left bank, limits of shoreline jurisdiction within Game Farm Wilderness Park.

b. Right bank, limits of shoreline jurisdiction from the boundary between the NE and NW quarters of Section 28, Township 21 N, Range 5 E, Willamette Meridian, to the west property boundary of Auburn Game Farm Park.

c. Left bank, limits of shoreline jurisdiction from R Street SE/Kersey Way SE to the western ~~city~~City limits.

d. Right bank, limits of shoreline jurisdiction from the east property boundary of Mount Baker Middle School to the boundary between Sections 30 and 31, Township 21 N, Range 5 E, Willamette Meridian.

3. Shoreline Residential.

a. Left bank, limits of shoreline jurisdiction in the Stuck River Road Special Plan Area, including portions of the NE and SW quarters, Section 29, Township 21 N, Range 5 E, Willamette Meridian.

b. Right bank, limits of shoreline jurisdiction from the west property boundary of Auburn Game Farm Park to the east property boundary of Mount Baker Middle School.

c. Right bank, limits of shoreline jurisdiction from the boundary between Sections 30 and 31, Township 21 N, Range 5 E, Willamette Meridian to the western ~~city~~City limits.

C. The department may, from time to time as new or improved information becomes available, modify the official maps described in subsection (A) of this section consistent with state guidelines to more accurately represent, clarify, or interpret the true limits of the shorelines defined herein.

D. Areas found to be within shoreline jurisdiction that are not mapped and/or designated are automatically assigned the “Urban Conservancy” designation until re-designated through a master program amendment process.

E. Location of Boundaries.

1. Boundaries indicated as following streets, highways, roads, and bridges shall be deemed to follow the centerline of such facilities unless otherwise specified.

2. Boundaries indicated as following railroad lines and transmission lines shall be deemed to follow the centerline of such rights-of-way or easements unless otherwise specified.

CHAPTER 4.0 Shoreline Master Program Policies, Development Standards and Use Regulations

The purpose of this chapter is to:

A. Implement the goals of the Shoreline Master Program Elements and establish policies to be integrated with the Auburn Comprehensive Plan; and

B. Allow for all reasonable and appropriate uses of the City of Auburn's shorelines without degradation of environmental quality or risk to public health or safety; and

C. Provide standards that will regulate and promote intensities and qualities of development consistent with the protection of the shoreline environment and its related resources and the Shoreline Management Act of 1971.

4.1 Scope.

No development, as defined in RCW 90.58.030-(3)-(d) ~~as a use which consists of construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel or minerals, driving of piling, placing of obstructions, or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act of 1971~~ and this SMP, shall be undertaken except in compliance with the provisions of this chapter and then only after securing all required permits.

A substantial development permit shall be required for any development of which the total cost or fair market value exceeds ~~five~~ seven thousand ~~seven hundred~~ and ~~eighteen~~ forty-seven dollars ($~~5~~7,~~718~~047), or the value as amended or adjusted for inflation per WAC 173-27-040(2)(a) / RCW 90.58.030-(3)-(e), or any development which materially interferes with the normal public use of the water of the ~~s~~Shorelines of the ~~s~~State unless exempt under the Act.

4.2 Applicability.

A. The provisions of this chapter shall apply to all shorelines, shorelands and associated wetland areas covered by the Shoreline Management Act of 1971 as follows:

1. All rivers and streams and their associated wetlands downstream from a point where the mean annual flow is 20 cubic feet per second or greater.
2. All lakes and their associated wetlands which are 20 surface acres in size or larger.
3. Shorelands and associated uplands extending 200 feet in all directions as measured on a horizontal plane from the ~~ordinary high water mark~~OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with their streams, lakes, and tidal waters subject to the provisions of Chapter 90.58 RCW.

B. All new development and uses occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, The Shoreline Management Act, Chapters 173-26 and 173-27 of the Washington Administrative Code, and this ~~s~~Shoreline ~~m~~Master ~~p~~Program.

C. Developments not required to obtain shoreline permits or local reviews.

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW, or to the D~~d~~epartment of E~~e~~cology when it conducts a remedial action under Chapter 70.105D RCW.

2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a N~~n~~ational P~~p~~ollutant D~~d~~ischarge E~~e~~limination S~~s~~ystem storm water general permit.

3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to Chapter 80.50 RCW.

4.3 Interpretation.

A. General.

1. In interpreting and applying the provisions of this chapter, the provisions shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare.
2. When the provisions of this chapter impose greater restrictions than are imposed by other applicable ~~city~~City, county, regional, state, and federal regulations, the provisions of this chapter shall control.
3. When a provision of this chapter conflicts with another provision in this chapter, the more restrictive provision shall apply.
4. Unless the context clearly indicates otherwise, words in the present tense can include the future tense, and words in the singular can include the plural, or vice versa.
5. The word “shall” is always mandatory. The word “should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act, WAC 173-26, and this SMP, against taking the action. The word “may” means the action is acceptable; provided it conforms to the provisions of WAC 173-26 and this SMP.

B. Interpretation by the Director.

The authority to administer the provisions of this chapter shall rest with the Director~~ of Planning, Building and Community~~ or successor department or designee. The Director shall have the authority to

determine that a proposed use is unclassified per the Master Program (neither prohibited nor included in a particular shoreline environment). The Director's determination in these instances may be appealed according to ACC 18.70.050. Such unclassified uses would be treated as conditional uses and may be allowed through the ~~c~~Conditional ~~u~~Use ~~p~~Permit (CUP) process described in WAC 173-27-160.

4.3.1 ~~Adoption~~ Incorporation of additional regulations.

A. Applicable provisions of ~~ACC~~ Chapter 16.10 ACC (per Ordinance No. 6733 – 2019 adoption), Critical Areas are herein incorporated into this ~~m~~Master ~~p~~Program ~~and included in Appendix A~~.

B. The regulations of ~~ACC~~ Chapter 18.54 ACC, Nonconforming Structures, Land and Uses are herein incorporated into this ~~m~~Master ~~p~~Program ~~and included in Appendix B~~.

4.4 General Policies and Regulations

The following general policies and regulations apply to all ~~s~~Shorelines of the ~~s~~State that are located in Auburn, regardless of the specific shoreline environment designation in any one location.

4.4.1 Conservation and Restoration

Policies

1. Prioritize enhancement and restoration efforts at public parks and public open space lands
2. Work with owners of other publicly-owned land to encourage restoration and enhancement projects.
3. Work with the public and other interested parties to prioritize restoration opportunities identified in the Shoreline Inventory and Characterization Report.
4. Promote vegetation restoration, and the control of invasive weeds and nonnative species to avoid adverse impacts to hydrology, and to reduce the hazard of slope failures or accelerated erosion.
5. Integrate bioengineering and/or soft engineering approaches into local and regional flood control measures, infrastructure, and related capital improvement projects.
6. Develop a program to implement restoration projects, including funding strategies.
7. Monitor and adaptively manage restoration projects.
8. Continue to work with the State, King County, Pierce County, Water~~shed~~ Resource Inventory Area (WRIA) 9 and 10 Forums, the Muckleshoot Tribe, and other governmental and non-governmental organizations to explore how local governments (with their assistance) can best address the needs of preserving ecological processes and shoreline functions.
9. Continue to work with the State, King County, Pierce County, ~~Green River~~ King County Flood Control ~~Zone~~ District, Pierce County Flood Control Zone District, and the Inter-County River Improvement Agency to identify and implement flood management strategies that protect existing development and restores floodplain and channel migration functions.
10. Continue to work with the WRIA 9 and 10 Forums to restore shoreline habitats and seasonal ranges that support listed endangered and threatened species, as well as other anadromous fisheries.

11. Create incentives that will make it economically or otherwise attractive to integrate shoreline ecological restoration into development projects.
12. Encourage restoration or enhancement of native riparian vegetation through incentives and non-regulatory programs.
13. Establish public education materials to provide shoreline landowners technical assistance about the benefits of native vegetation plantings.
14. Explore opportunities with other educational organizations and agencies to develop an on-going program of shoreline education for all ages.
15. Identify areas where kiosks and interpretive signs can enhance the educational experiences of users of the shoreline.
16. Develop strategies to fund shoreline-related educational and interpretative projects.

4.4.2 Shoreline Vegetation Conservation

Policies

1. Developments and activities in the City's shoreline should be planned and designed to retain native vegetation or replace shoreline vegetation with native species to achieve no net loss of the ecological functions and ecosystem-wide processes performed by vegetation.
2. Woody debris should be left in the river corridors to enhance wildlife habitat and shoreline ecological functions, except where it threatens personal safety or critical infrastructure, such as bridge pilings.–In such cases where debris poses a threat, it should be dislodged, but should not be removed from the river.

Regulations

1. During any development activity within the shoreline jurisdiction, native plant communities located within the shoreline buffer (minimum of 100-feet from OHWM for Shoreline Residential and Urban Conservancy environments; 200-feet for Natural environment) shall be protected, maintained, or enhanced per the regulations established in the Critical Areas Ordinance and the Master Program. Pursuant to ACC 16.10.090, "Buffer Areas and Setbacks", buffers that have been previously disturbed shall be re-vegetated pursuant to an approved enhancement plan.
2. The following uses are allowed within the shoreline buffer only when also allowed within the applicable shoreline environment designation:
    a. Improvements that are part of an approved enhancement, restoration or mitigation plan
    b. New public roads and bridges, where no feasible alternative location exists
    c. Utilities and accessory structures, where no feasible alternative location exists
    d. Foot trails constructed according to the following criteria:
        i. Designed to minimize impact of permeable materials;
        ii. Designed to minimize impact on the shoreline system;
        iii. Of a maximum width of twelve (12) feet; and

iv. Located within the outer half of the shoreline buffer, i.e. the portion of the buffer that is farther away from the stream.

e. Footbridges

f. Education facilities, such as viewing platforms and informational signs

g. Water-oriented uses

h. Replacement or rehabilitation of existing levees

i. Under residential development regulations, approved docks, floats, buoys, bulkheads, launching ramps and similar structures are exempt from the setback.

3. Pursuant to ACC 18.50.0~~60~~45, "~~General landscape requirements~~Preservation of significant trees", all significant trees shall be retained and made part of the landscape plan, as applicable. Pursuant to ACC 18.50.0~~3~~045, ~~"Definitions",~~ significant trees are defined as a healthy evergreen tree, six inches or more in diameter measured four feet above grade; or a healthy deciduous tree four inches or more in diameter measured four feet above grade. The Director may authorize the exclusion of any significant tree which for the reason of public health, safety or reasonable site development is not desirable to maintain.

4. Any pruning of trees or shrubs shall be for the purpose of maintaining the tree or shrub in a healthy growing condition and/or to enhance its natural growing form. Excessive pruning of trees or shrubs that adversely affects the healthy living condition of the plant or excessively damages the natural growing form of the plant shall be prohibited; unless such pruning is done to alleviate documented public health and safety concerns.

5. A critical areas study shall be submitted for review for all proposed development activity within the shoreline jurisdiction. The purpose of the report is to determine the extent, characteristics and functions of critical areas located on or potentially affected by proposed activities on site. See ACC ~~Section~~ 16.10.070 "Critical Area Review Process and Application Requirements" for required report contents.

6. Shoreline buffers shall be protected during construction by placement of a temporary barricade, notice of the presence of the critical area and implementation of appropriate erosion and sedimentation controls as described in ACC 16.10.090, "Buffer Areas and Setbacks".

7. As part of a development proposal, the Director may require the shoreline buffer to be placed in a separate tract on which development is prohibited; protected by execution of an easement dedicated to the City, a conservation organization, or land trust; or similarly preserved through a permanent protective mechanism acceptable to the City as described in ACC Section 16.10.090, "Buffer Areas and Setbacks."

8. Proposed development in the shoreline jurisdiction shall include provision of landscape information appropriate to identify and remove nonnative and invasive species and replace with native vegetation to maintain or enhance shoreline ecological functions on the property. When required by the Director, landscape plans shall establish a staged vegetation removal and replacement program that keeps the amount of exposed soil during and after clearing and grading activities to a minimum. In drier months, temporary surface irrigation or temporary installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings.

9. If the area of clearing or grading necessary to remove nonnative or invasive vegetation totals one-acre or greater (43,560 square feet), located on site, in or outside of shoreline jurisdiction,

then water quality and erosion control measures shall be established through the NPDES Construction Stormwater General Permit and associated Stormwater Pollution Prevention Plan (SWPPP).– If the area of clearing or grading is less than one-acre, but includes disturbance of land in shoreline jurisdiction, a Temporary Erosion and Sediment Control (TESC) Plan shall be required.– The TESC Plan shall employ best management practices (BMPs) consistent with ~~city~~City Engineering D~~d~~esign and C~~c~~onstruction ~~s~~Standards.

10. Should a development create unavoidable impacts adverse to shoreline vegetation located within the shoreline jurisdiction, mitigation shall be required. Mitigation shall ensure that there will be no net loss in the amount of vegetated area or the ecological functions performed by the disturbed vegetation. The Director shall rely on the critical areas study required under regulation #4~~4~~5 of this section to provide a site specific description of the ecological functions while also relying on the Auburn Inventory and Characterization report as a general guide. Pursuant to Section 4.4.3., "Environmental Impact Mitigation" of the Master Program and ACC 16.10.120, "Mitigation Standards, Criteria and Plan Requirements", on-site and in-kind mitigation is preferred. Mitigation plans shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule that assures completion prior to occupancy has been approved by the Director.

11. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type appropriate for the site. As described in ACC ~~Section~~ 16.10.120, "Performance Standards for Mitigation Planning", plants native to the Puget Lowlands or Pacific Northwest ecoregion should be used as well as plants that are adapted and appropriate for the proposed habitats. Significant areas of the site should not be planted with species that have questionable potential for successful establishment. The use of perennial plants is preferred over annual species. Plant species high in food and cover value for native fish and wildlife species that are known or likely to use the mitigation site should be used. Emulate the plant species heterogeneity and structural diversity found in native plant communities, as described in regionally recognized publications on native landscapes.

12. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or when an existing water-dependent use is restricted by the presence of weeds.

13. For lawns and other vegetation maintained within shoreline jurisdiction, the use of chemical fertilizers, pesticides or other similar chemical treatments shall be discouraged and alternative practices shall be employed.– Where chemical fertilizer, herbicide, or pesticide use is necessary for protecting existing natural vegetation or establishing new vegetation in shoreline areas as part of an erosion control or mitigation plan, the use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application. As described in ACC 16.10.120, "Performance Standards for Mitigation Planning", fertilizers must be applied per manufacturer specifications to planting holes in organic or controlled release forms, and never broadcast on the ground surface. If herbicides are used, only those approved for use in aquatic ecosystems by the Washington Department of Ecology shall be used. Herbicides shall only be used in conformance with all applicable laws and regulations and be applied per manufacturer specifications by an applicator licensed in the state of Washington.

4.4.3 Environmental Impact Mitigation

Policies

1. All shoreline use and development should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas designated in Auburn City Code Chapter 16.10 ACC that are located in the shoreline. Should a proposed use and development potentially create significant adverse environmental impacts not otherwise avoided or mitigated by compliance with the master program, the Director should require mitigation measures to ensure no net loss of shoreline ecological functions.

Regulations

1. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), ~~c~~Chapter 43.21C RCW, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (~~ACC~~ Chapter 16.06 ACC and WAC 197-11).
2. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.
    a. Avoiding the impact altogether by not taking a certain action or parts of an action;
    b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
    c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
    d. Reducing or eliminating the impact over time by preservation and maintenance operations;
    e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
    f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
3. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.
4. Required mitigation shall not be in excess of that necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.
5. Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by the policies of the Shoreline Management Act.
6. When compensatory measures are appropriate pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive

resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. ACC ~~Section~~ 16.10.110, "Mitigation Standards, Criteria And Plan Requirements," establishes regulations on location and timing of mitigation. On-site and in-kind mitigation are preferred.

7. A monitoring program shall be prepared and implemented by the applicant for mitigation projects. The monitoring program shall include a contingency plan in the event that implementation of the mitigation plan is inadequate or fails. A performance and maintenance security is required in the amount of one hundred and twenty-five percent of the cost of the mitigation project for the length of the monitoring period. This is to ensure the applicant complies with the terms of the approved mitigation plan. See ACC 16.10.130, "Monitoring Program and Contingency Plan", for specific elements that need to be incorporated into the monitoring program.

4.4.4 Critical Areas

Policies

1. Provide a level of protection to critical areas within the shoreline that is at least equal to that which is provided by the City's critical areas regulations adopted pursuant to the Growth Management Act and the City's Comprehensive Plan. If conflicts between the SMP and the critical area regulations arise, the regulations that are most consistent with the SMA or its WAC provisions will govern.
2. Allow activities in critical areas that protect and, where possible, restore the ecological functions and ecosystem-wide processes of the City's shorelines.
3. Preserve, protect, restore and/or mitigate ~~wetlands~~ critical areas within and associated with the City's shorelines to achieve no net loss of ~~wetland area and wetland~~shoreline ecological functions.
4. Developments in shoreline areas that are identified as geologically hazardous areas, or pose a foreseeable risk to people and improvements during the life of the development, should not be allowed.

Regulations

1. Provisions of the City of Auburn Critical Areas Ordinance, as codified in Chapter 16.10 ACC (per Ordinance No. 6733) are herein incorporated into this master program except as noted below:
    a. If there are any conflicts or unclear distinctions between the Shoreline Master Program and the Critical Areas standards as part of the Master Program, the requirements that are the most consistent with the SMA or its WAC provisions shall apply, as determined by the Director~~City~~ and Section 4.3 of this SMP.
    b. Provisions of the Critical Areas standards that are not consistent with the Shoreline Management Act (Chapter~~,~~ 90.~~8~~58 RCW)~~,~~ and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction.
    c. The provisions of Auburn's Critical Areas standards do not extend shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas

that are outside shoreline jurisdiction, see ~~Auburn's Critical Areas Ordinance~~Chapter 16.10 ACC.

d. When definitions per ACC 16.10.020 "Definitions" conflict with SMP definitions per Chapter 1, SMP definitions shall apply.

e. ACC 16.10.030 "Applicability – Regulated activities" shall not apply within the shoreline jurisdiction. Determining which activities are regulated shall be governed by this Master Program.

f. Activities that are exempt from the provisions of Auburn's Critical Areas Ordinance per ACC 16.10.040 "Exemptions and nonconforming uses" shall not apply within the shoreline jurisdiction. Determining which activities are exempt shall be be governed by this Master Program and WAC 173-27-040.

g. Provisions of Auburn's Critical Area Ordinance that include a "reasonable use determination" shall not apply within shoreline jurisdiction. Specifically,

    i. References to reasonable use in Section ACC 16.10.100 "Alteration or development of critical areas – Standards and criteria" shall not apply; and

    ii. Section ACC 16.10.150 "Reasonable use provision" shall not apply.

    In the event an applicant wishes to adjust standards and provisions for designated critical areas per the Reasonable Use Exception under ACC 16.10.150, such application shall be processed as a Shoreline Variance Permit process, per the provisions of this SMP and WAC 173-27, Shoreline Management Permit and Enforcement Procedures.

h. Provisions of Auburn's Critical Areas Ordinance relating to variance procedures and criteria do not apply within the shoreline jurisdiction. Within the shoreline jurisdiction, the purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the ~~applicable~~ Shoreline ~~m~~Master ~~p~~Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the Shoreline ~~m~~Master ~~p~~Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Specifically,

    i. References to variances in Section ACC 16.10.090 "Buffer areas and setbacks" shall not apply; and

    ii. ACC ~~section~~ 16.10.160 "Variances" shall not apply. Variance procedures and criteria shall be established in this SMP, Chapter 6, and in WAC 173-27-170.

i. ACC 16.10.170 "Special exception for public agencies and utilities" shall not apply.

2. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or enhance the ecological functions and ecosystem-wide processes provided by critical areas including, but not limited to: Wetlands, Streams, Wildlife Habitat, ~~Groundwater Protection Areas~~Aquifer Recharge Areas, Geologically Hazardous Areas, and Flood Hazard Areas as defined and designated by the Critical Areas Ordinance; and Critical Freshwater Habitats as defined by the Shoreline Master Program.

3. Proponents of development in shoreline areas that may impact ~~G~~geologically ~~H~~hazardous areas, as defined and designated in the Critical Areas Ordinance (Chapter 16.10 ACC), ~~critical areas~~ must submit a ~~g~~Geo~~logic~~technical ~~hazard r~~Report ~~that complies~~ that is prepared consistent with

Chapter 16.10 ACC and the City of Auburn Engineering Design Standards~~the submittal requirements provided in Appendix C~~.

~~4.4.5 Critical Area Regulations Table~~

~~The following table provides a summary of standards and provisions per ACC "Critical Areas." The table is only meant to serve as a reference; applicable provisions ACC (included as Appendix A) should be consulted directly to determine the full extent of the regulation. Per ACC , the Green River and White River are considered Class I Streams. Other designated critical areas that may be located within shoreline jurisdiction include wetlands, wildlife habitat areas, and geologic hazard areas.~~

Table 1. Critical Area Regulations

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
Class I Streams	100 feet *(Urban Conservancy and Shoreline Residential)* 200 feet *(Natural)*	Buffer width may be increased by the Director by up to a maximum of 50% pursuant to ACC (E)(2)(b)	The buffer shall be measured from the ordinary high water mark.	Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.	Buffer averaging is not permitted Buffer widths may be reduced by up to 35% provided the applicant demonstrates that a reduction will not result in any adverse impact to the stream. Enhancement of the buffer may be required. Buffer width reduction must comply with ACC (E)(1).
Wetlands			The buffer shall be measured perpendicular from the wetland edge as delineated and marked in the field using the 1997 Washington State Wetlands Identification Manual.		Buffer width averaging may be allowed provided the total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging, where such reduction shall not result in greater than a
Category I	100 feet	200 feet			
Category II	50 feet	100 feet			

~~Critical Area~~	~~Minimum Buffer Width~~	~~Maximum Buffer Width~~	~~How to Measure Buffer Width~~	~~Buffer Composition~~	~~Buffer Averaging/Width Reduction~~
~~Category III~~	~~25 feet~~	~~50 feet~~			~~35 percent reduction in the buffer width and the applicant demonstrates compliance with ACC (E)(1) Buffer Areas and Setbacks.~~ ~~Buffer width can be reduced by up to 35% provided the applicant enhances or restores the buffer. The restoration or enhancement would have to meet requirements per ACC (E)(1) Buffer Areas and Setbacks.~~
~~Category IV~~	~~25 feet~~	~~30 feet~~			

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
Wildlife Habitat Areas	Buffer widths shall be determined by the director based on the following factors: • species recommendations of the Department of Fish and Wildlife; • recommendations contained in the wildlife report and the nature and intensity of land uses and activities occurring on the site and on adjacent sites.	N/A	N/A	Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.	Buffer widths for critical habitat areas may be modified by averaging buffer widths or by enhancing or restoring buffer quality.
Geologic Hazard Areas	Required buffers may vary in width. The widths of the buffer shall reflect the sensitivity of the geologic hazard area in question and the types and density of uses proposed on or adjacent to the geologic hazard.	N/A	Geologic hazard area buffers shall be measured from the top and toe and along the sides of the slope.		Not permitted

~~Critical Area~~	~~Minimum Buffer Width~~	~~Maximum Buffer Width~~	~~How to Measure Buffer Width~~	~~Buffer Composition~~	~~Buffer Averaging/Width Reduction~~
				~~Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC 16.10 or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.~~ ~~Buffers shall typically consist of an undisturbed area of~~	

~~Critical Area~~	~~Minimum Buffer Width~~	~~Maximum Buffer Width~~	~~How to Measure Buffer Width~~	~~Buffer Composition~~	~~Buffer Averaging/Width Reduction~~
				~~native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC 16.10 or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.~~	

~~4.4.6~~4.4.5 Public Access (including views)

Policies

1. Public access improvements should not result in adverse impacts to the natural character and quality of the shoreline and associated wetlands or result in a net loss of shoreline ecological functions.– Developments and activities within the shoreline should not impair or detract from the public's visual or physical access to the water.
2. Protection and enhancement of the public's physical and visual access to shorelines should be encouraged.
3. The amount and diversity of public access to shorelines should be increased consistent with the natural shoreline character, property rights, and public safety.
4. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected, undeveloped open space.
5. Public access should be designed to provide for public safety. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and should be designed to be ADA accessible.

Regulations

1. All shoreline permits shall include provisions to provide public access where any of the following conditions are present:
   a. Where a development or use will create increased demand for public access to the shoreline;
   b. Where a development or use will interfere with an existing public access way;
   c. Where a use is not a priority use under the Act;
   d. Where a new multi-~~unit~~ family residential development or land subdivision for more than four parcels is proposed
   e. Where a non-water-dependent use (including water-enjoyment and water-related use) is proposed or,
   f. Where a use or development will interfere with the public use of the lands or waters subject to the public trust doctrine.
2. An applicant need not provide public access where one or more of the following conditions apply:
   a. The City of Auburn provides more effective public access through preparation and adoption of a public access planning process and plan as described in WAC 173-26-221(4)(c);
   b. Unavoidable health or safety hazards to the public exists which cannot be prevented by practical means;
   c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
   d. Environmental harm will result from the public access that cannot be mitigated; or,

e. Adverse and unavoidable conflict between access requirements and the proposed use cannot be mitigated.

3. Public access shall be designed to respect private properties.
4. Development uses and activities shall be designed and operated to avoid blocking, obstructing, reducing or adversely interfering with the public's physical and visual access to the water and shorelines.
5. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.
6. Public access locations shall be clearly marked with visible signage.
7. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).
8. Shoreline development by any public entities, including the City of Auburn, port districts, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, impact to the shoreline environment or other provisions listed in WAC 173-26-221(4)(d).

~~4.4.7~~4.4.6 Flood Hazard Reduction

Policies

1. The City should manage flood protection through the City's Comprehensive Drainage Plan, Comprehensive Plan, stormwater regulations, and flood hazard areas regulations.
2. Discourage development within the floodplains associated with the City's shorelines that would individually or cumulatively result in an increase to the risk of flood damage.
3. Non-structural flood hazard reduction measures should be given preference over structural measures. -Structural flood hazard reduction measures should be avoided whenever possible. When necessary, they should be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes. Non-structural measures include setbacks, land use controls prohibiting or limiting development in areas that are historically flooded, stormwater management plans, or bioengineering measures.
4. Where possible, public access should be integrated into publicly financed flood control and management facilities.

Regulations

1. No permanent non-water dependent structures or uses shall be placed in the floodway zone. Bank protection associated with bridge construction and maintenance may be permitted and shall conform to provisions of the State Hydraulics Code (RCW 77.55).
2. Normal maintenance and repair of existing flood control structures, such as levees and dikes, to a state comparable to its original condition, shall be allowed per WAC 173-27-040(2)-(b).
3. Rehabilitation or replacement of existing flood control structures, such as levees and dikes, whose primary purpose is to contain the 1-percent annual chance flood event, shall be allowed where it can be demonstrated by an engineering analysis that the existing structure:

a. Does not provide an appropriate level of protection for surrounding lands; or

b. Does not meet appropriate engineering design standards for stability (e.g., oversteepened side slopes for existing soil and/or flow conditions).

Rehabilitated or replaced structures shall maintain equal or lesser side slope angles to existing conditions, and shall not extend the toe of slope laterally into the channel.

4. New structural flood hazard reduction measures shall be allowed only under the following circumstances:

   a. When it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development;

   b. That non-structural measures are not feasible;

   c. That impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and

   d. That appropriate vegetation restoration and conservation actions are undertaken consistent with regulations under Section 4.4.2 "Shoreline Vegetation Conservation" of the Master Program and ~~ACC~~Chapter-16.10 ACC, "Critical Areas".

5. Permanent structures placed within the 100-year floodplain shall be designed and constructed in accordance with the requirements of ~~ACC~~ Chapter 15.68 ACC, "Flood Hazard Areas".

6. New structural flood hazard reduction measures, such as dikes, levees, berms and similar flood control structures shall be placed landward of the floodway as determined by the U.S. Army Corps of Engineers and the State of Washington, Department of Ecology.

7. New structural flood hazard reduction measures, such as dikes, levees, berms shall be placed landward of associated wetlands, and designated vegetation conservation areas, except when the project includes increasing ecological functions as part of the design or as mitigation for impacts.

8. Dikes, levees, berms and similar flood control structures shall be shaped and planted with vegetation suitable for wildlife habitat.

9. New structural public flood hazard reduction measures, such as dikes and levees shall dedicate and provide or improve public access unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, significant ecological impacts that cannot be mitigated, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

10. Removal of gravel from the river channel for flood management purposes is prohibited.

~~4.4.8~~4.4.7 Water Quality, Storm water and Non-Point Pollution

Policies

1. The City should prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

2. Storm water management treatment, conveyance, or discharge facilities should be discouraged in the shoreline jurisdiction, unless no other feasible alternative is available.
3. Low impact development techniques that allow for greater amount of storm water to infiltrate into the soil should be encouraged to reduce storm water run-off.
4. Encourage conservation of existing shoreline vegetation which provides water quality protection by slowing and filtering stormwater runoff.

Regulations

1. Shoreline development and use shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws. Appropriate vegetation restoration and conservation actions shall be undertaken consistent with regulations under Section 4.4.2, "Shoreline Vegetation Conservation" and ~~ACC~~Chapter-16.10 ACC, "Critical Areas".
2. Development within the City's shoreline shall conform to all requirements in the City's Comprehensive Drainage Plan and stormwater standards, Comprehensive Plan, and Flood Hazard Areas regulations.
3. The construction of new outfalls into water bodies and improvements to existing facilities shall comply with all appropriate Federal, State, and City regulations for water quality.
4. Water discharged to rivers shall receive appropriate treatment as determined by the Department of Ecology and shall not present a thermal or other barrier to fish migration.
5. Use of pesticides and fertilizers in or near shoreline jurisdiction shall conform to the following:
    a. Pesticides applied using aerial spraying techniques within the shoreline jurisdiction, including over water bodies or wetlands, shall be prohibited unless specifically permitted under the Washington Departments of Agriculture or Ecology.
    b. Pesticides, organic or mineral derived fertilizers, or other hazardous substances, if necessary shall be restricted in accordance with: the state Department of Fish and Wildlife Management Recommendations; the regulations of the state Department of Ecology as the Environmental Protection Agency's delegated authority and permitting body for the application of pesticides and herbicides to the waters of Washington State; and pesticide labels as per the authority of the state Department of Agriculture.
    c. Pesticides shall be used, handled, and be disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Act (RCW 15.587) to prevent contamination and sanitation problems.

~~4.4.9~~4.4.8 Educational and Archeological Areas and Historic Sites

Policies

1. Where possible, Educational and Archeological Areas and Historic sites in the shoreline should be permanently preserved for scientific study, education, and public observation.

2. Consideration should be given to the National Historic Preservation Act of 1966 ~~and Chapter 43.51 RCW~~ to provide for the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures and objects located or associated with the shoreline that are significant in American, Washington and local history, architecture, archeology or culture.
3. Where feasible and appropriate, access trails to shorelines should incorporate access to or educational signage acknowledging protected, historical, cultural and archeological sites or areas in the shoreline.

Regulations

1. If any archeological artifacts are uncovered during excavations in the shoreline, work must stop and the City of Auburn, the State Department of Archeology and Historic Preservation and the Muckleshoot Indian Tribe must be notified.
2. Permits issued in areas known or highly suspected to contain archeological artifacts and data shall have provisions providing for a site inspection and evaluation by an archeologist prior to initiation of disturbance and for monitoring of potentially disruptive activities. Cost for inspection and evaluation of the site will be the responsibility of the developer. This condition shall require the approval by the Director before work can begin or resume on a project. Significant archeological data or artifacts shall be recovered before work resumes or begins on a project.

~~4.4.10~~4.4.9 Nonconforming Use and Development Standards

Policies

1. Legally established uses and developments that predate the City's Shoreline Master Program (1973, as amended) should be allowed to continue as legal nonconforming uses provided that future development or redevelopment does not increase the degree of nonconformity with this program.

Regulations

1. Nonconforming structures.

   a. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired.

   ~~a.~~b. Nonconforming structures ~~and~~ may be enlarged or expanded provided that said enlargement meets the applicable provisions of the SMP. The proposed expansion shall~~does~~ not increase the extent of nonconformity by further encroaching upon or extending into areas where construction ~~or use~~ would not be allowed for new ~~development or uses~~structures, unless a Shoreline Variance is obtained.

   ~~b.~~c. ~~Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that n~~Nonconforming single-family residences that are located landward of the ~~ordinary high water mark~~OHWM may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040(2)(g) upon approval of a Shoreline Conditional Use Permit.

2. ~~A use which is listed as a conditional use, but which existed prior to adoption of the master program or any relevant amendment and for which a Shoreline Conditional Use Permit has not been obtained shall be considered a nonconforming use.~~

   ~~a.~~d. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

   ~~b.~~e. In the absence of other more specific regulations, ~~A~~a structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon ~~the~~ approval of a Shoreline Conditional Use Permit. A Shoreline Conditional Use Permit may be approved only upon a finding that:

      i. No reasonable alternative conforming use is practical; and

      ii. The proposed use will be at least as consistent with the policies and provisions of the Shoreline Master Program and as compatible with the uses in the area as the preexisting use; and

      ~~iii. Meets WAC conditional use permit review criteria.~~

      In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the

Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

~~c.~~f. A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the Shoreline Master Program.

~~d.~~g. If a nonconforming ~~development~~ structure is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original ~~development~~structure, it may be reconstructed to those configurations existing immediately prior to the time the ~~development~~ structure was damaged, provided that application is made for the permits necessary to restore the ~~development~~ structure within ~~six months~~two years of the date the damage occurred~~, all permits are obtained and the restoration is completed within two years of permit issuance~~.

2. Nonconforming uses.

a. Uses that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses.

b. In the absence of other more specific regulations in the master program, such uses shall not be enlarged or expanded, except upon approval of a Shoreline Conditional Use Permit.

c. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be made conforming unless re-establishment of the use is authorized through a Shoreline Conditional Use Permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection (~~6~~1)(e) of this section shall be considered an allowed nonconforming use for purposes of this section.

3. Nonconforming lots.

a. ~~10. An~~ nonconforming ~~undeveloped~~ lot~~, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or the applicable master program but which does not conform to the present lot size standards~~ may be developed if permitted by other land use regulations of the ~~local government~~ City ~~and~~ so long as such development conforms to all other requirements of the applicable master program and the Shoreline Management Act. New single-family development on nonconforming lots shall meet the development standards established in Section 4.7.8 of this SMP, except as provided in the following subsections (b-c).

b. Nonconforming lots – Modest Home Provision (development allowed without a variance). New single-family development on a vacant legal lot within the shoreline jurisdiction that is significantly encumbered by the shoreline buffer may be allowed without a Shoreline Variance when:

i. There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity; and

ii. The building area lying within the shoreline buffer and interior to the required side yard and front yard setbacks is not more than 2,500 square feet for a single-family residence, otherwise all the provisions of the SMP apply. Building area means the

entire area utilized to construct a single-family residence (including all appurtenances, except driveways). A driveway shall not be more than 600 square feet and must be located entirely on the landward side of all structures; and

iii. The residence is located in the least environmentally damaging location relative to the shoreline and any critical areas, as determined by the Director after recommendation by a qualified consultant; and

iv. The lot does not contain any critical geologic hazard areas as defined in Chapter 16.10 ACC; and

v. All structures are as far landward as possible and not closer than 30 feet from the OHWM; and

vi. At least 80 percent of the buffer area between the structures and the shoreline and/or critical area is maintained or enhanced to a naturally vegetated condition; and

vii. All single-family residences approved under this section shall not extend waterward of the common-line setback/buffer (see the following and Figure 1 below), as determined by the Director. The setback can be determined as follows:

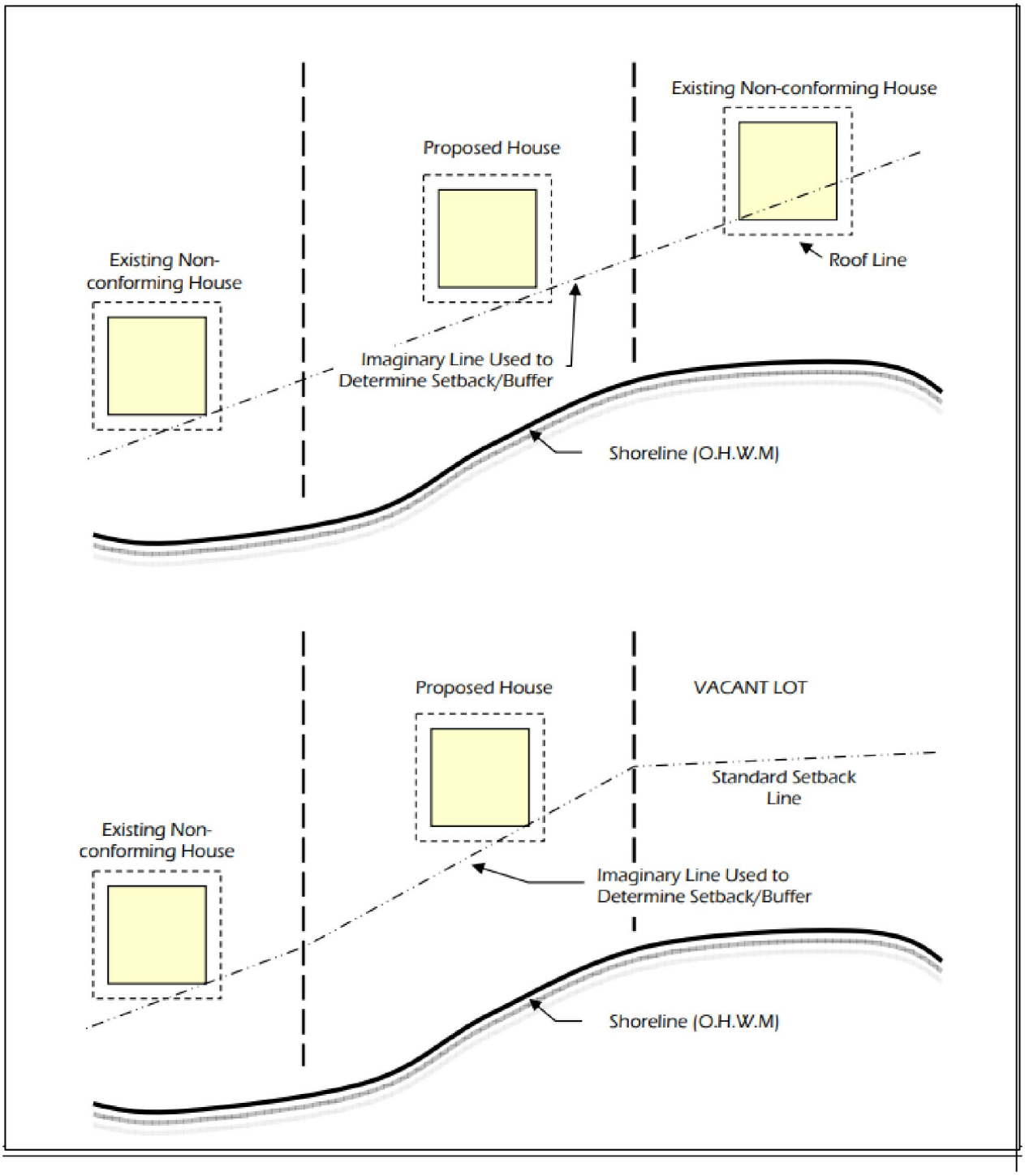
1. Where there are existing legally established nonconforming residences that encroach on the established setback within 200 feet of either side of the proposed building footprint, the Director may reduce the required setback/buffer for the single-family residence (see Figure 1 below). In such cases, the proposed residence may be set back from the OHWM to a common line drawn between the nearest corners of each adjacent residence closest to the lot (measured to the residence's foundation). The common line buffer does not include measurements from appurtenant or accessory structure.

2. In those instances where only one existing non-conforming single-family residence is within 200 feet of the proposed building footprint, the Director may reduce the setback/buffer of the proposed structure to a line drawn between the nearest corner of the existing adjacent residence and the nearest applicable setback for the adjacent vacant parcel as measured at the intersection of the setback line and the property line, as shown in Figure 1 below.

3. In no case shall the reduced setback/buffer applied be less than 30 feet landward of the OHWM. In all cases, buffers shall meet the requirements of 4.4.9(3)(b)(vi), above.

4. Any further setback/buffer reduction for non-conforming lots beyond what is allowed in this section shall require approval of a Shoreline Variance.

Figure 1. Common-Line Setback.



4.5 Permitted Use Table

The following table illustrates which shoreline modifications and shoreline uses are allowed or prohibited in each shoreline environment. This table is intended for reference purposes only.– Refer to text sections of the SMP for all applicable provisions related to specific uses and modifications. If information in the table conflicts with provisions in other parts of the SMP conflict, the provisions contained in text sections of the SMP shall apply.

P = Permitted - Permitted uses may require Shoreline Substantial Development Permits and any other permits required by the Auburn Municipal Code and/or other regulatory agencies.

C = Conditional Use - Conditional uses require Shoreline Conditional Use Permit and may require other permits required by the Auburn Municipal Code and/or other regulatory agencies.

X = Prohibited

Table 1. Permitted Use

Shoreline Modification or Use	Shoreline Environment Designations		
	Natural	**Urban Conservancy**	**Shoreline Residential**
Minimum Setbacks from OHWM	200-feet	100-feet	100-feet
Shoreline Modification			
Breakwaters, jetties, groins, and weirs	**X**	**X**	**X**
Dredging and Dredge Material Disposal	**P**: For maintaining location, depth, and width previously authorized under this program. **C**: For habitat maintenance and improvement and flood protection in consultation with the WDFW. **X**: All other dredging and disposal.	**P**: For maintaining location, depth, and width previously authorized under this program. **C**: For habitat maintenance and improvement and flood protection in consultation with the WDFW. **X**: All other dredging activities.	**P**: For maintaining location, depth, and width previously authorized under this program. **C**: For habitat maintenance and improvement and flood protection in consultation with the WDFW. **X**: All other dredging activities.
Dune modification	**X**	**X**	**X**
Piers and Docks	**X**	**X**	**X**
Structural flood hazard reduction (dikes and levees)	**C**: Replacement or rehabilitation of existing levees or dikes. **X**: New levees or dikes.	**P**: Replacement or rehabilitation of existing levees. **X**: New levees or dikes.	**P**: Replacement or rehabilitation of existing levees. **X**: New levees or dikes.

Shoreline Modification or Use	Shoreline Environment Designations		
	Natural	**Urban Conservancy**	**Shoreline Residential**
Shoreline Stabilization (Bulkheads and Revetments)	**X**	**P**: If accessory to single-family residence. **C**: If not accessory to a single-family residence.	**P**: If accessory to single-family residence. **C**: If not accessory to a single-family residence.
Clearing and Grading	**P:** If associated with allowed shoreline development.	**P:** If associated with allowed shoreline development.	**P:** If associated with allowed shoreline development.
Fill	**C**: For activities associated with habitat restoration. **X**: All other fills.	**P**: Fills at or above the OHWM or the natural bank, whichever is less if associated with allowed shoreline development. Fills extending waterward of OHWM for restoration projects only. **C**: Fills extending waterward of OHWM for water dependent uses only.~~.~~	**P**: Fills at or above the OHWM or the natural bank, whichever is less if associated with allowed shoreline development. Fills extending waterward of OHWM for restoration projects only. **C**: Fills extending waterward of OHWM for water dependent uses only.~~.~~
Shoreline Habitat and Natural Systems Enhancement Projects	**P**	**P**	**P**
Shoreline Use			

Shoreline Modification or Use	Shoreline Environment Designations		
	Natural	**Urban Conservancy**	**Shoreline Residential**
Agriculture	**P:** Existing and ongoing agricultural activities. **X:** All other agricultural activities.	**P:** Existing and ongoing agricultural activities. **X:** All other agricultural activities.	**P:** Existing and ongoing agricultural activities. **X:** All other agricultural activities.
Aquaculture	**C:** Fish hatcheries and associated facilities. **X:** All other aquaculture activities and uses—.	**C:** Fish hatcheries and associated facilities. **X:** All other aquaculture activities and uses—.	**X**
Boating Facilities	**X**	**P:** Boat launching ramps open to the public otherwise prohibited.	**P:** Boat launching ramps open to the public otherwise prohibited.
Commercial Development	**X**	**X**	**X**
Forest Practices	**X**	**X**	**X**
Industrial Development	**X**	**X**	**X**
In-stream Structures	**C:** Fish Hatcheries and associated facilities.	**-C**	**-C**
Mining	**X:** New or expanded mining.	**X:** New or expanded mining **C:** Existing mining and related activities.	**X:** New or expanded mining.

Shoreline Modification or Use	Shoreline Environment Designations		
	Natural	**Urban Conservancy**	**Shoreline Residential**
Recreation	**P:** Unpaved bridle, bicycling and hiking trails, including over water pedestrian bridges; viewpoints, including interpretative viewpoints; fishing access areas not requiring structural facilities; and pedestrian boardwalks. **X:** Golf courses; ORV trails and areas; resorts; high intensity parks; walk-in campgrounds.	**P:** Paved and unpaved bridle/bicycling/-walking trails, interpretive viewpoints, pedestrian boardwalks and piers, pedestrian bridges, over water, water-enjoyment uses, golf courses, and incidental retail activity in conjunction with a public access pier. **C:** Non-water related uses. **X:** Walk in campgrounds, resorts, off road vehicles (ORV) trails	**P:** Paved and unpaved bridle/bicycling/walking trails, interpretive viewpoints, pedestrian boardwalks, pedestrian bridges, over water. **C:** Non-water related accessory uses and water-enjoyment uses. **X:** Golf courses, incidental retail activity associated with a recreational use, walk in campgrounds, resorts, and off road vehicles (ORV) trails.
Residential Developments	**P:** Residential development and land divisions are permitted provided no improvements are located within the required buffer.	**P:** Uses commonly accessory to single family residences. **C:** New single-family residence[1]; ~~,~~ **C:** ~~r~~Residential subdivisions; multi-family residential development.	**P:** New a single-family residence; residential subdivisions; and uses accessory to single family residences. **C:** Multi-family development.
Signs	**P:** Warning signs, navigational signs, and informational signs. **X:** Commercial signs.	**P**	**P**
Permanent Solid Waste Storage or Transfer Facilities	**X**	**X**	**X**
Transportation Facilities (Roads and Bridges)	**P**	**P**	**P**

Shoreline Modification or Use	Shoreline Environment Designations		
	Natural	**Urban Conservancy**	**Shoreline Residential**
Transportation Facilities (Railroads)	**X**	**P:** Pedestrian overpasses and underpasses. **C:** Relocation of existing tracks landward of an existing right-of-way with no expansion in the number of tracks or expansion of railroads within the existing right-of-way. **X:** Expansion of existing railroad into new right of way and new railroads.	**P:** Pedestrian overpasses and underpasses. **C:** Relocation of existing tracks landward of an existing right-of-way with no expansion in the number of tracks or expansion of railroads within the existing right-of-way. **X:** Expansion of existing railroad into new right of way and new railroads.
Utilities	**C:** Underground linear utility facilities and primary conveyance facilities (pump stations and pipelines), but only when unavoidably necessary to cross a body of water; Storm drain outfalls. **X:** Site-specific utility facilities (i.e. sewage treatment plant, water reclamation, electrical substations); Linear utility facilities except as listed above.	**P:** Storm drain outfalls; primary conveyance and distribution facilities such as pipes and pump stations; accessory utility facilities to serve allowed development. **C:** Primary utilities such as transmission facilities; reclaimed water facilities; potable water production; wastewater treatment plant,; and storm water storage or treatment ponds. **X** : Reclaimed water discharge/application facilities.	**P:** Storm drain outfalls; primary conveyance and distribution facilities such as pipes and pump stations; accessory utility facilities to serve allowed development. **C:** Primary utilities such as transmission facilities and storm water storage and treatment ponds. **X:** Wastewater treatment plants; reclaimed water facilities; potable water production facilities.
Unclassified Uses	**C**	**C**	**C**

4.6 Shoreline Modification

Shoreline modifications are generally related to construction of a physical element such as a levee, bulkhead, or pier at or near the river's edge or extending into the channel.– Other shoreline modification actions include dredging, filling, or vegetation clearing in the shoreline jurisdiction. Modifications are usually undertaken in support of or in preparation for an allowed shoreline use or development.

4.6.1 Prohibited Modifications

The following shoreline modifications are prohibited in all shoreline environments unless addressed separately in this ~~s~~Shoreline ~~m~~Master ~~p~~Program under another use:

1. Breakwaters, jetties, groins, and weirs;
2. Dune modifications; and
3. Piers and docks.

4.6.2 Dredging and Dredge Material Disposal

Policies

1. Dredging and dredge material disposal should be done in manner, which avoids or minimizes significant ecological impacts. Where impacts cannot be avoided, mitigation measure are required that result in no net loss of shoreline ecological functions.
2. Dredge spoil disposal in water bodies, on shorelands, or wetlands within a river's channel migration zone should be discouraged, except as needed for habitat improvement.
3. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

Regulations

1. Dredging of bottom materials for the sole purpose of obtaining fill material or aggregate resources is prohibited, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a ~~s~~Shoreline ~~c~~Conditional ~~u~~Use ~~p~~Permit, any other significant habitat enhancement project.
2. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining location, depth, and width previously authorized under this program.
3. Material dredged in conformance with state and federal water quality standards may be used in permitted fill projects.
4. Returned water from any dredge material disposed of on land shall meet all applicable water quality standards and regulations. If necessary, disposal sites shall be protected by berms and outlets to remove suspended solids and to ensure that the quality of return water meets state Department of Ecology standards.

5. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use or activity.
6. Disposal of dredged materials in water areas shall only be permitted in an approved disposal site for habitat improvement, to correct material distribution problems affecting fish resources, where depositing materials on land would be more detrimental to shoreline resources than water deposition, or as fill in conjunction with an environmental remediation project.
7. Disposal of dredge material on shorelands or wetlands within a river's channel migration zones shall be prohibited. Proposals for the disposal of dredged materials in shoreline jurisdiction shall require a ~~c~~Conditional ~~u~~Use ~~p~~Permit and must show that the site will be suitable for uses permitted for that shoreline environment.

4.6.3 Piers and Docks

Policies

1. The City should discourage the construction of new piers, docks, or floats in the shoreline jurisdiction along the Green and White Rivers.

Regulations

1. Construction of new piers, docks, or floats or expansion of existing piers, docks, or floats shall be prohibited except as necessary for habitat monitoring or habitat improvement projects.
2. Maintenance of existing legally established piers, docks, and floats shall be allowed provided that maintenance activities do not adversely impact shoreline ecological functions.

4.6.4 Shoreline Stabilization (bulkheads and revetments)

Policies

1. Shoreline stabilization activities that may necessitate new or increased shoreline stabilization on the same or other affected properties where there has been no previous need for stabilization should be discouraged
2. New shoreline uses and development be located away from the shoreline in order to preclude the need for new shoreline stabilization structures.
3. Structural or "hard" shoreline stabilization techniques and structures should be allowed only after it is demonstrated that non-structural or "soft" shoreline protection measures are not feasible.
4. The cumulative effect of allowing bulkheads or revetments along river segments should be evaluated.– If it is determined that the cumulative effects of bulkheads or revetments would have an adverse effect on shoreline functions or processes, then permits should not be granted.
5. Bulkheads should not be permitted as a solution to geo-physical problems such as mass slope failure, sloughing, or land-slides.– Bulkheads and revetments should only be approved for the purposes of protecting existing developments by preventing bank erosion by the rivers.

Regulations

1. Bulkheads or revetments shall be designed, constructed and maintained in a manner that does not degrade ecological function including fish habitat, and shall conform to the requirements of the Washington State Department of Fish and Wildlife criteria and guidelines.
2. The builder of any bulkhead or revetment shall be financially responsible for determining the nature and the extent of probable adverse effects on fish and wildlife or on the property of others caused by his construction and shall propose to the City actions to minimize such effects.
3. A person who has received approval to construct a bulkhead in keeping with these regulations may be required to grant adjacent property owners the privilege to tie in and meet with a bulkhead when they have an approved permit.
4. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated in the design whenever possible.
5. Repair and maintenance shall maintain the aesthetic integrity of the existing structure.
6. Bulkheads or revetments shall be constructed of suitable materials that will serve to accomplish the desired end with maximum preservation of natural characteristics. Automobile bodies, other junk, solid waste or other materials with the potential for water quality degradation shall not be used. Design and construction methods shall consider aesthetics and habitat protection.
7. New or enlarged structural shoreline stabilization measures for an existing development or residences shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion. The geotechnical report must include estimates of erosion rates and damage within three years and must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement as a means of reducing erosion and promoting bank stability. The report must demonstrate that “soft” shoreline protection measures or bioengineering erosion control designs will not provide adequate upland protection of existing structures or would pose a threat or risk to adjacent property.
8. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents, tidal action, or waves. At the discretion of the City Engineer, the demonstration of need does not necessarily require a geotechnical report by a licensed geotechnical engineer or related licensed professional. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM.
9. Provided that regulation #8 has been met, the replacement of lawfully established, existing bulkheads or revetments shall be allowed, subject to the following priority system:
    a. First priority. The first priority for replacement of bulkheads or revetments shall be to install “soft” shoreline protection measures or bioengineering erosion control designs.
    b. Second priority. The second priority for replacement of existing bulkheads or revetments shall be to install “hard” shoreline protection measures only when “soft” measures would

not provide adequate upland protection of existing structures or would pose a threat or risk to adjacent property.

c. Third priority. The third priority for replacement of bulkheads or revetments shall be landward of the existing bulkhead.

d. Fourth Priority. The fourth priority for replacement of existing bulkheads or revetments shall be to replace in place (at the bulkhead's existing location).

e. Fifth Priority. The fifth and last priority for replacement of existing bulkheads shall be a one-time replacement no greater than three feet waterward of the existing bulkhead. Under this fifth priority, documentation must be provided that habitat will not be adversely impacted and habitat friendly materials shall be used. The property owner shall also demonstrate that removing the existing structure would either

   i. Cause irreversible environmental damages, or

   ii. Undermine and damage the residential structure on the property.

10. When evaluating a proposal against the above priority system, at a minimum the following criteria shall be considered:

    a. Existing topography;

    b. Existing development;

    c. Location of abutting bulkheads; and,

    d. Impact to habitat.

11. Bank protection material shall be placed on/from the bank. Dumping of bank protection material directly from a truck bed onto the bank face is prohibited.

12. Bank protection material shall be clean and shall be of a sufficient size to prevent its being washed away by high water.

13. When riprap is washed out and presents a hazard to the safety of recreational users, it shall be removed by the owner of such material.

14. Whenever feasible, trees and vegetation shading streams and rivers shall be retained when riprap is placed.

4.6.5 Clearing and Grading

Policies

1. Clearing and grading activities should only be allowed in association with a permitted shoreline development.
2. Clearing and grading activities shall be limited to the minimum necessary for the intended development, including residential development.

Regulations

1. Clearing and grading activities shall only be allowed in association with an allowed (permitted) shoreline development.

2. Clearing and grading activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part a landscape plan.– If the area of clearing or grading totals one-acre or greater (43,560 square feet), located on site, in or outside of shoreline jurisdiction, then water quality and erosion control measures shall be established through the NPDES Construction Stormwater General Permit and associated Stormwater Pollution Prevention Plan (SWPPP).– If the area of clearing or grading is less than one-acre, but includes disturbance in shoreline jurisdiction, a Temporary Erosion and Sediment Control (TESC) Plan shall be required.– The TESC Plan shall employ best management practices (BMPs) consistent with ~~city~~City Engineering ~~d~~Design and ~~c~~Construction ~~s~~Standards.
3. Clearing and grading activities shall adhere to a prepared schedule and mitigation plan as approved by the Director. This schedule and mitigation plan shall include, but not be limited to, limits of clearing and grading activities and the design, implementation, maintenance, and monitoring of mitigation requirements to prevent erosion, siltation, and destruction of vegetation.
4. All grading shall be completed or stabilized by October 31st of each year unless the applicant provides technical analysis that demonstrates to the satisfaction of the Director that no harm to the shoreline environment or safety problems would result from grading between October 31st and April 1st.
5. Clearing invasive non-native shoreline vegetation listed on the King or Pierce County Noxious Weed List is permitted in the shoreline, provided hand held equipment is used and native vegetation is promptly reestablished in the disturbed area.

4.6.6 Fill

Policies

1. Fill placed waterward of the OHWM should be prohibited and only allowed to facilitate water-dependaent uses or restoration projects.
2. Where permitted, fill should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted by the Shoreline Master Program.
3. The perimeter of fill activities should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time.

Regulations

1. Fill extending no further than the OHWM or the natural bank, whichever is less, may be permitted provided that probable significant adverse impacts are mitigated.
2. Fill for the purpose of creating new land shall be permitted only for water dependent uses.
3. Fill placed waterward of the OHWM for restoration purposes, such as nourishment of shoreline areas, shall be permitted.
4. Perimeters of cuts and fills shall be provided with vegetation, riprap, retaining walls, or other approved means for slope protection.

5. Fill materials shall not cause violation of water quality standards or otherwise be toxic to humans or to fish and wildlife.

4.6.7 Shoreline Habitat and Natural Systems Enhancement Projects

Policies

1. All proposed shoreline habitat and natural systems enhancement projects should assure that the activities associated with each project address legitimate restoration needs and priorities and facilitate implementation of the Restoration Plan developed with this Shoreline Master Program pursuant to WAC 173-26-201(2)(f).

Regulations

1. A shoreline habitat or natural systems enhancement project involving environmental remediation activities shall not harm human health or the environment. -Cleanup methods shall not have significant negative impacts on adjacent and existing land uses in the area.
2. Where possible, habitat improvement projects shall be protected in perpetuity through a conservation easement conveyed to the ~~city~~City or public agency. -The Director ~~of Planning, Building and Community~~ may approve other forms of encumbrances. If future development proposes to impact existing habitat improvement sites, it must be demonstrated that there are no practicable alternatives to avoid adverse impacts and, further, that adequate mitigation is provided to address unavoidable losses.

3. Habitat improvements shall use an ecosystem or landscape approach, integrate projects into their surrounding shoreline environments and include greenbelts for species movement and use.

~~3.~~4. The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.- “Shoreline restoration project" means a project designed to restore impaired ecological function of a shoreline.

4.7 Shoreline Uses

Shoreline use activities are developments or activities that exist or are anticipated to occupy shoreline locations.

Regulations are developed on the premise that all appropriate shoreline uses require some degree of control to minimize adverse ~~a~~effects to the shoreline environment and adjoining properties.

Each proposed development within the Shoreline Management Act’s jurisdiction will be evaluated to determine its conformance with the use activity policies and regulations, as well as the Shoreline Management Element goals and policies, the SMA, and the SMP. Even uses and activities that are exempt from the requirements for a ~~s~~Shoreline ~~s~~Substantial ~~d~~Development ~~p~~Permit must be consistent with the policies and regulations of the SMP, the SMA, and its provisions.

4.7.1 Prohibited Uses

The following uses are prohibited in all shoreline environments unless addressed separately in this ~~s~~Shoreline ~~m~~Master ~~p~~Program under another use:

1. Boat houses;
2. Commercial development;
3. Forest practices;
4. Industrial development;
5. New or expanded mining; and
6. Permanent solid waste storage or transfer facilities.

4.7.2 Agriculture

Policies

1. This Program allows for existing, ongoing agricultural activities while also maintaining shoreline ecological functions and processes.
2. Agricultural activities that do not meet the definition for existing and ongoing agricultural activities should not be allowed in the shoreline.
3. Appropriate farm management techniques and new development construction should be encouraged to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer, herbicides and pesticide use and application.
4. A vegetative buffer should be encouraged to be placed and maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality, provide shade, reduce flood hazard, and maintain habitat for fish and wildlife.
5. Public access to the shoreline should be encouraged where it does not conflict with agricultural activities.
6. Proposals to convert agricultural uses to other uses should comply with all policies and regulations established by the Comprehensive Plan and this Master Program for said uses and should not result in a net loss of ecological functions.

Regulations

1. Existing and ongoing agricultural activities shall be permitted in all shoreline environment designations. All other agricultural activities shall be prohibited.
2. Existing and ongoing agricultural activities are encouraged to provide a buffer of natural or planted permanent native vegetation between areas of crops, grazing, or other agricultural activity and adjacent waters, channel migration zones, and wetlands.
3. Farming of fin fish, shellfish and management of other aquatic products are subject to the policies and regulations for Aquaculture under Section 4.7.3.
4. Erosion control measures shall conform to guidelines and standards established by the U.S. Soil Conservation Service and the U.S. Department of Agriculture.
5. The application of agricultural chemicals shall prevent the direct runoff of chemical-laden waters into water bodies. Adequate provision shall be made to minimize their entry into any body of water. Shoreline waters shall not be used for livestock watering.

6. Livestock waste shall be disposed in a manner that will prevent surface or ground water contamination.
7. Conversion of agricultural uses to other uses shall comply with the provisions of ~~ACC~~ Chapter 16.10 ACC, Critical Areas and this Program for the proposed use.

4.7.3 Aquaculture

Policies

1. Aquaculture is a water-dependent use, and when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident native species, is an accepted use of the shoreline.
2. Development of aquaculture facilities and associated activities, such as hatcheries and fish counting stations should assure no net loss to shoreline ecological functions or processes. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.
3. Since locations for aquaculture activities are somewhat limited and require specific water quality, temperature, oxygen content, and adjacent land use conditions, and because the technology associated with some forms of aquaculture is still experimental, some latitude should be given when implementing the regulations of this section, provided that potential impacts on existing uses and shoreline ecological functions and processes are given due consideration. Experimental aquaculture projects should be monitored and adaptively managed to maintain shoreline ecological functions and processes.

Regulations

1. Development of aquaculture facilities shall be permitted as a conditional use in the Urban Conservancy and Natural shoreline environments.
2. New upland aquaculture developments shall be screened from view from adjacent residential or recreational areas by fences, berms, and/or vegetative buffers.
3. Reflected glare or direct light generated by aquaculture developments shall be minimized to the greatest extent possible. Lighting fixtures shall be designed and hooded to prevent the light source from being directly visible from outside the boundaries of the property.
4. The operators of aquaculture developments shall control odor through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation. A specific plan for identifying and controlling odors shall be developed and approved as part of the permit approval process.
5. Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of nonnative species, or other adverse effects on ESA-listed species shall not be permitted.
6. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal

Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).

4.7.4 Boating Facilities

Policies

1. Boating facilities should not be allowed unless they are accessible to the general public or serve a community.
2. New boat launching ramps should be allowed only where they are located at sites with suitable environmental conditions, shoreline configurations, access and neighboring uses.
3. Development of new or modifications to existing boat launching ramps and associated and accessory uses should not result in a net loss of shoreline ecological functions or other significant adverse impacts.

Regulations

1. Public boat launching ramps shall be permitted in the Urban Conservancy and Shoreline Residential Environments. Other types of boating facilities shall be prohibited in Natural, Urban Conservancy, and Shoreline Residential Environments.
2. Before granting approval of a permit to allow any boat launching ramp, the applicant must satisfactorily demonstrate that:
    a. Adequate facilities for the efficient handling of sewage and litter will be provided.
    b. The ramp will minimize impediments to migrating fish and will not locate on sites important for salmonids, including spawning, feeding or rearing areas.
    c. Important navigation routes or recreation areas will not be obstructed.
    d. Adequate separation will be maintained between structures and adjacent properties.
    e. Adequate separation and buffers will be maintained between the facility's associated parking area and adjacent properties such that the landscaping requirements per ~~Auburn Municipal Code~~Chapter 18.50 ACC, “Landscaping and Screening” are met.
    f. The dimensions and composition of buffers between the OHWM and the facility’s associated parking area shall meet requirements per ACC ~~Section~~ 16.10.090, “Buffer areas and setbacks”.
    g. The boat launch shall be designed so that structures are aesthetically compatible with, or enhance, existing shoreline features and uses.

4.7.5 In-Stream Structural Uses

Policies

1. Approval of applications for in-stream structures should require inclusion of provisions for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydro geological processes, and natural scenic vistas.

2. The location and planning of in-stream structures should give consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

3. Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural in-stream structures.

Regulations

1. In-stream structures shall only be permitted as a ~~c~~Conditional ~~u~~Use in the Urban Conservancy, Shoreline Residential, and Natural (highly limited) environments.
2. Where in-stream structures are permitted, they shall be developed and maintained in a manner that does not adversely impact ecological functions or wildlife habitat.
3. In-stream structures that divert water shall return flow to the river in as short a distance as possible.
4. All permit applications for in-stream structures shall contain, at a minimum, the following:
   a. Provision for public access to and along the affected shoreline and proposed recreational features at the site, where applicable. Public access provisions shall include vistas and trails.
   b. A plan describing the extent and location of vegetation proposed for removal to accommodate the proposed facility and restoration plans.
   c. All design work shall be done in consultation with the State Department of Fish and Wildlife, State Department of Ecology and other relevant agencies.

4.7.6 Mining

Policies

1. Limit mining activities near the shoreline to existing mining uses.

Regulations

1. New or expanded mining activities shall be prohibited.
2. Impacts to shorelines and water bodies due to existing mining operations upland of the shoreline jurisdiction shall be minimized.

4.7.7 Recreation

Policies

1. Prioritize shoreline recreational development that provides public access, enjoyment and use of the water and shorelines of the State over other non-water-oriented recreational uses.
2. Shoreline areas with the potential for providing recreation or public access opportunities should be identified for this use and, wherever possible, acquired and incorporated into the Public Park and open space system.

3. Public recreational facilities should be located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and such that no net loss of shoreline ecological functions or ecosystem-wide processes result.
4. The coordination of local, state, and federal recreation planning should be encouraged so as to mutually satisfy needs.– Shoreline recreational developments should be consistent with the City's Comprehensive Plan and Parks, Recreation and Open Space Plan.
5. Recreational development should not interfere with public use of navigable waters.

Regulations

1. Accessory use facilities such as rest rooms and parking areas shall be set back from the ~~ordinary high water mark~~OHWM unless accessory use facilities are essentially water-oriented. These areas should be linked to the shoreline by walkways.
2. For recreation developments requiring fertilizers, pesticides or other toxic chemicals, such as golf courses and play fields, the applicant shall submit plans demonstrating the methods to be used to prevent these chemicals and the resultant leachate from entering adjacent water bodies and wetlands. At a minimum, plans shall meet the following:
    a. Native vegetation zone strips and, if practical, shade trees shall be included in the development. The City shall determine the maximum width necessary for buffer strips, but in no case shall the buffer strip be less than 50 feet.
    b. A chemical-free swath of at least 100 feet in width shall be established next to water bodies and wetlands except that spot spraying for weed control is allowed on golf courses.
    c. Slow release fertilizers and herbicides are permitted outside the required chemical-free swath. Liquid or concentrate application shall only be allowed for weed control spot spraying.
    d. Plans shall be consistent with Section 4.4.2., "Shoreline Vegetation Conservation" and Section 4.4.8, "Water Quality, Storm water and non-point pollution" regulations of the Master Program.
3. A coordinated system of signs indicating the publics' right of access to shoreline areas shall be installed and maintained in conspicuous locations at the point of access and the entrance thereto.
4. In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance or restore desirable shoreline features including scenic views. To this end, the City may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, parking requirements, and setbacks, as deemed appropriate to achieve this intent.
5. Recreational development shall be subject to the following design requirements:
    a. Development shall be designed to maintain, enhance and/or restore desirable shoreline features including areas of native vegetation, scenic views and aesthetic values.
    b. Recreational developments shall provide non-motorized access to the shoreline such as pedestrian and bicycle paths. Motorized vehicular access is prohibited on stream beds, except for boat launching and maintenance activities.

c. To protect natural resources and adjacent properties, recreational facility design and operation shall prohibit the use of all-terrain and off-road vehicles in the shoreline area.

d. Proposals for developments shall include a landscape plan that uses primarily native, self-sustaining vegetation. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of permitted structures or facilities. See "Clearing and Grading" and "Shoreline Vegetation Conservation" sections of the Master Program for specific regulations.

e. No recreation buildings or structures shall be built over water, except water dependent or public access structures such as docks, piers, viewing platforms or walkways subject to applicable regulations of this ~~s~~Shoreline ~~m~~Master ~~p~~Program.

f. Recreational facilities shall make adequate provisions, such as screening, buffer strips fences and signs to prevent parking overflow and to protect the value and enjoyment of adjacent and natural areas.

g. Proposals for recreational developments must include plans for sewage disposal, water supply, and solid waste disposal. All disposal facilities shall meet all applicable State and local standards and regulations.

h. Accesses for boats shall allow safe and convenient passage to the public water, dictated by the class of boats using the access.

4.7.8 Residential Development

Policies

1. New over-water residences, including floating homes, are not a preferred use and should be prohibited.
2. New multi-~~unit~~ family residential development and land subdivisions for more than four parcels should provide community and/or public access in conformance to the City's public access planning and this Shoreline Master Program. ~~-~~Adjoining access shall be considered in making this determination.
3. Accessory development (to either multi~~ple~~ -family or single-~~-~~family) should be designed and located to blend into the site as much as possible.
4. New residential developments and land divisions should avoid the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

Regulations

1. Residential development shall be subject to the requirements of the City of Auburn Zoning Code (Title 18 ACC). In case of a discrepancy between the requirements of this Master Program and the Zoning Code, or other regulations, consistency with the SMP, the SMA, and its provisions shall prevail.
2. The creation of new lots shall be prohibited unless all of the following can be demonstrated.
   a. A primary residence can be built on each new lot without any of the following being necessary:

i. New structural shoreline stabilization;

ii. New improvements in the required shoreline buffer or required critical area buffer;

iii. Causing significant vegetation removal that adversely impacts ecological functions;

iv. Causing significant erosion or reduction in slope stability; and

v. Causing increased flood hazard or erosion in the new development or to other properties.

b. Adequate sewer, water, access, and utilities can be provided.

c. The intensity and type of development is consistent with the City's ~~c~~Comprehensive ~~p~~Plan and development regulations.

d. Potential significant adverse environmental impacts (including significant ecological impacts) can be avoided or mitigated to achieve no net loss of ecological functions, taking into consideration temporal loss due to development and potential adverse impacts to the environment.

3. Channel ~~m~~Migration ~~z~~Zones and floodplain areas should be avoided if possible when new residential lots are being created.

4. Prior to the granting of a Substantial Development Permit or Building Permit, the City shall make a determination that the proposed project is consistent with the policies and regulations of the Shoreline Master Program including the following- standards:

a. The proposed development site is suited for residential use and is not located in areas having significant hazard to life and property and likely to require future public funds to protect and rehabilitate. Adequate methods of erosion control will be utilized during and after project construction.

b. Disturbance of established, native shoreline vegetation will be minimized.

c. Solutions will be provided to the problem of contamination of surface waters, depletion and contamination of ground water supplies and generation of increased runoff into water bodies.

5. Residential development over water including garages, accessory buildings, and boathouses shall not be permitted unless otherwise specified in this chapter.

6. New multi~~-unit~~ -family residential development, including the subdivision of land for more than four parcels, shall include public access in conformance ~~to~~ with Section 4.4.6 "Public Access" and the City's public access planning.

7. The following lot coverage, setback and height limitations shall be applicable to residential development in all shoreline environments:

a. Lot Coverage. Not more than 33 and 1/3 percent of the gross lot area within the regulated shoreline shall be covered by impervious material including parking areas but excluding driveways.

b. Setbacks. All setbacks, with the exception of the setbacks from the ~~ordinary high water mark~~OHWM, shall be as required by the City of Auburn Zoning Code or other City regulations.

c. The required ~~S~~setbacks for buildings and structures on ~~Shoreline Sites~~ from the ~~Ordinary High Water Mark~~OHWM in the Urban Conservancy and Shoreline Residential environment designations~~. The required setback for buildings and structures from the ordinary high water~~ shall be measured from the OHWM ~~mark~~ or lawfully constructed bulkhead or revetment, whichever is further upland, shall be 100 feet except that the shoreline setback shall not apply to approved docks, floats, buoys, bulkheads, launching ramps, and similar structures.

d. The required ~~S~~setbacks for ~~Shoreline Sites~~ from the OHWM ~~Ordinary High Water Mark~~ in the Natural environment designation~~. The required setback for buildings and structures from the ordinary high water mark~~ shall be 200 feet. ~~-~~Residential development is allowed on property with a Natural designation, provided the lot size and configuration can accommodate such use without locating buildings, structures, impervious surface, or other improvements within the 200-foot setback.

8. Site Preparation. It shall be the intent of this Chapter to require the maintenance, enhancement, and preservation of the natural site amenities. To this end, the City may limit the extent of grading and clearing to the extent deemed necessary for the reasonable and necessary use of the site or tract.

9. Height Limitations. The maximum height above average grade level of any ~~residential~~ building or structure shall be 35 feet.

10. Fences.

    a. No fence shall extend waterward of the OHWM; and,

    b. Fences waterward of the furthest waterward extension of the house shall be limited to four feet in height or less.

    c. Fences shall not be constructed in the floodway.

        i. For instances where a floodway boundary changes, existing legally ~~permitted~~ established fences may be maintained and repaired in place. Replacement fences shall be relocated outside of the floodway.

11. The following uses shall be permitted provided they are accommodated by residential facilities and are allowed by the underlying zoning as a permitted use (i.e., does not require a ~~c~~Conditional ~~u~~Use Permit per the applicable zoning regulations):

    a. Home based daycare; and

    b. Supportive housing.

4.7.9 Signs

Policies

1. Signs should be designed, constructed and placed so that they are compatible with the natural quality of the shoreline environment and adjacent land and water uses.

Regulations

1. The location, erection, and maintenance of all signs must comply with the Chapter 18.56 ACC, ~~{~~"Signs~~}~~"~~ity of Auburn Sign Code~~.

2. Off-premise outdoor advertising signs are prohibited in all shoreline environments.
3. No signs will be erected or maintained upon trees, or drawn or painted upon rocks or other natural features.

4.7.10 Transportation

Policies

1. Plan, locate, design and where appropriate construct, proposed roads, non-motorized systems and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.
2. The number of river crossings should be minimized.
3. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use and then as remote from the ~~S~~shoreline as possible.
4. Trail and bicycle systems should be encouraged along the White and Green Rivers wherever possible.
5. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities, and non-motorized transportation should be encouraged.
6. New railroad corridors should be prohibited.

Regulations

Roads & Bridges

1. Developers of new roads must be able to demonstrate the following:
    a. The need for a shoreline location and that no reasonable upland alternative exists.
    b. That construction is designed to protect the adjacent shorelands against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment both during and after construction.
    c. That the project will be planned to fit the existing topography as much as possible thus minimizing alterations to the natural environment.
    d. That all debris, overburden and other waste materials from construction will be disposed of in such a way as to prevent their entry by erosion from drainage into the water body.
    e. That proposed bridges will be built high enough to allow the passage of debris and anticipated high water flows.
    f. That when new roads will afford scenic vistas, viewpoint areas will be provided. Scenic corridors shall have sufficient provision for safe pedestrian and non-motorized vehicular travel.
2. Developers of roads must demonstrate that:

a. The road is located on grade rather than elevated unless crossing wetlands. Road designs must provide appropriate pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.

3. Where bridges cross the Green and White Rivers, pedestrian linear access along the water will be provided except where precluded by safety factors. Pedestrian and bicycle passage across water shall be provided except on limited access highways.
4. Bridges shall be used when crossing marshes, swamps, bogs, ponds, natural recharge areas and other wetlands to avoid obstructing movement of surface and groundwater.
5. All cut and fill slopes shall be stabilized and planted with native and/or appropriately introduced grasses, shrubs and/or trees which shall be maintained by the installing agency until established.
6. Roads shall be located so as to avoid the use of culverts to the maximum extent possible.
7. Major roads shall cross shoreline areas by the shortest most direct route feasible, unless such route would cause significant additional environmental damage.
8. Private access roads providing ingress and egress for individual single family residences or lots shall be limited to one lane with turnouts and may not exceed a maximum width of fifteen (15) feet.
9. Private access roads serving two or more families may be two lanes in width.

Railroads

1. New railroads requiring right-of-way expansion are prohibited.
2. Expansion of existing railroad within existing rights-of-way (i.e. additional track) must demonstrate the following:
   a. The need for a shoreline location and that no reasonable upland alternative exists.
   b. The construction is designed to protect adjacent shorelands against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment both during and after construction.
   c. The identification of anticipated adverse environmental impacts and mitigation measures.
   d. That the project is planned to fit the existing topography as much as possible thus minimizing alterations to the natural environment.
   e. That all debris, overburden and other waste materials from construction will be disposed of in such a way as to prevent their entry by erosion from drainage into a water body.
   f. That proposed bridges, if any, will be built high enough to allow the passage of debris and anticipated high water flows.
3. Relocation of existing tracks and right-of-way landward of an existing right-of-way with no expansion in the number of tracks shall be a conditional use.
4. All cut and fill slopes shall be stabilized and planted with native and/or appropriately introduced grasses, shrubs and/or trees which shall be maintained by the installing agency until fully established.
5. Bridges shall be used when crossing marshes, swamps, bogs, ponds, natural recharge areas and other wetlands to avoid obstructing movement of surface and groundwater.

6. Railroad overpasses and underpasses shall be encouraged and designed to promote safety for the pedestrian and for the railroad.
7. Public access improvements, including tying in to existing access, shall be required with any railroad expansion.
8. Easement crossings shall be granted by the railroad for public facilities and services as part of railroad expansion or right-of-way relocation.

4.7.11 Utilities

Policies

1. Utility facilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape and vistas, preserve and protect fish and wildlife habitat, and minimize conflicts with present and planned land and shoreline uses.
2. Primary utility production and processing facilities, such as power plants, sewage treatment plants, water reclamation plants, or parts of those facilities that are non-water-oriented should not be allowed in shoreline areas.
3. Utilities should utilize existing transportation and utilities sites, rights-of-way and corridors, whenever possible. Joint use of rights-of-way and corridors should be encouraged.
4. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible. Where no other option exists, utilities should be placed underground or alongside or under bridges.
5. New utilities facilities should be located so as not to require extensive shoreline protection structures.
6. Where storm water management, conveyance, and discharge facilities are permitted in the shoreline, they should be limited to the minimum size needed to accomplish their purpose and should be sited and designed in a manner that avoids, or mitigates adverse effects to the physical, hydrologic, or ecological functions.
7. Stormwater conveyance facilities should utilize existing transportation and utility sites, rights-of-way and corridors, whenever possible. Joint use of right-of-way and corridors should be encouraged.

Regulations

1. Shoreline permit applications for installation of primary utility facilities shall include the following:
    a. Reason why utility facility requires a shoreline location;
    b. Alternative locations considered and reasons for their elimination; including alternate methods of crossing such as directional boring;
    c. Location of other utility facilities in the vicinity of the proposed project including facilities of other types of utilities;
    d. Plans for reclamation of areas disturbed during construction;
    e. Plans for control of erosion and turbidity during construction;

f. Possibility for consideration of the proposed facility within existing utility right-of-way.

2. Utilities shall be located to be consistent with the policies of comprehensive plan utilities element.

3. The State of Washington Departments of Fish and Wildlife and Ecology shall be notified of any utility proposal which would require withdrawals or diversions of water from any body of water under shoreline management jurisdiction.

4. Construction of underwater utilities or those within the wetland perimeter shall be timed to avoid major fish migratory runs.

5. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to water quality shall provide automatic shut off valves.

6. Upon completion of utility installation/maintenance projects on shorelines, banks shall, at a minimum, be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

7. Above ground site specific primary utility facilities such as generating facilities, switching complexes, wastewater treatment plants, water reclamation facilities, storage tanks, and substations shall be located at least 200 feet from the ~~ordinary high water mark~~OHWM unless the permittee can show the need for a shoreline location.

8. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the shoreline jurisdiction.

9. Where major generating facilities must be placed in a shoreline area, scenic views shall not be obstructed

10. Transmission, distribution, and conveyance facilities shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

11. Where overhead transmission lines must parallel the shoreline, they shall be outside of the ~~two hundred (~~200~~)~~ foot shoreline environment unless topography or safety factors would make it unfeasible.

12. Over water crossings of utilities shall be prohibited unless attached to a bridge structure.

13. Where practical, utilities should consolidate permit applications in situations where multiple permits from individual utilities are required.

14. Accessory utility facilities, such as those typical and normal to support and serve a permitted shoreline use, shall be a permitted use in all environments. This will typically consist of distribution lines and individual service lines. Such utility facilities may be new or may be relocated facilities associated with, by way of example, a road improvement project.

15. Storm water management facilities, limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the following provisions are met:

a. Construction of the storm water facility does not displace or impact a critical area;

b. There is no other feasible location for the storm water facility and the facility is located, constructed, and maintained in a manner that minimizes adverse effects to shoreline ecological functions;

c. The storm water facility is designed to mimic and resemble natural wetlands and meets applicable ~~County~~City or State storm water management standards and the discharge water meets state water quality standards;

d. Low impact development approaches have been considered and implemented to the maximum extent feasible.

16. Primary conveyance facilities, including storm water, wastewater, or water supply pump stations; and storm water discharge facilities such as dispersion trenches, level spreaders, and outfalls, may be located in the shoreline jurisdiction on a case by case basis with a Shoreline Substantial Development Permit when the Director ~~of Planning, Building and Community~~ determines that all of the following are met:

a. Due to topographic or other physical constraints there are no feasible locations for these facilities outside the shoreline;

b. The discharge is sited in a manner that minimizes disturbance of soils and vegetation.

c. The discharge outlet is designed to prevent erosion and promote infiltration.

17. Construction of stormwater facilities in the shorelines jurisdiction shall be timed to avoid fish and wildlife migratory and spawning periods.

18. Proposal for all new storm water facilities shall include landscaping plans that enhance the aesthetic quality of the shoreline, utilize native vegetation, and provide for maintenance care until newly planted vegetation is established.

19. Development of stormwater facilities within the shoreline jurisdiction shall include public access to the shoreline, trails systems, or other forms of recreation, providing such uses will not unduly interfere with stormwater facility operations, endanger public health, safety, and welfare, or create a significant and disproportionate liability for the owner.

CHAPTER 5.0 Shoreline Master Program Amendments

5.1.1 Purpose.

The purpose of this chapter is to set forth procedures when proposals are made to adopt or amend the official controls of area-wide applicability which implement the ~~s~~Shoreline ~~m~~Master ~~p~~Program, i.e., the shoreline use regulations and maps made a part thereof.

5.1.2 Amendments authorized.

The provisions of the ~~s~~Shoreline ~~m~~Master ~~p~~Program use regulations or the shoreline environment map may be amended as provided for in RCW 90.58.120 and 90.58.200 and Chapter 173-26 WAC.

5.1.3 Adoption required by the council.

Adoption of an amendment to the official controls shall be adopted by the ~~city~~City council by ordinance after a public hearing and report by the ~~planning commission~~Planning Commission.

5.1.4 Initiation of amendments.

The shoreline use regulations or map amendments thereto may be initiated by:

A. The adoption of a motion by the ~~city~~City council requesting the ~~planning commission~~Planning Commission to set a matter for hearing and recommendation.

B. The adoption of a motion by the ~~planning commission~~Planning Commission.

C. Application of one or more owners of property affected by the proposal.

D. A department or agency of the ~~city~~City or governmental entity.

5.1.5 Applications required.

The Director shall prescribe the form(s) on which applications are made for amendments to the master program use regulations and/or shoreline environment designation map.

Applications for amendments to the master program must satisfy the requirements of the State Environmental Policy Act (Chapter ~~41~~3.21C RCW and Chapter 197-11 WAC).

5.1.6 Public hearing required by ~~planning commission~~Planning Commission.

Whenever an amendment to the use regulations and/or shoreline environment designation map is initiated under Section 5.1.4 of this Master Program, the Planning Commission shall hold at least one public hearing thereon, and notice of such hearing shall be given.

5.1.7 Burden of proof.

Proponents for shoreline environment map redesignations (i.e., amendments to the shoreline environment designation map) shall bear the burden of proof for demonstrating consistency with the

shoreline environment criteria of the master program, Chapter 173-26 WAC, and the goals and policies of the City of Auburn Comprehensive Plan.

5.1.8 Public notice.

Notice shall be given pursuant to Chapter 173-26 WAC. Additional notice may be employed at the discretion of the Director ~~of Planning, Building, and Community~~.

5.1.9 City ~~c~~Council.

The action by the Planning Commission on an amendment shall be considered advisory to the council. Final and conclusive action on an amendment shall be taken only by the City C~~c~~ouncil.

5.1.10 Transmittal to the Department of Ecology.

Subsequent to final action by the ~~c~~Council adopting or amending the Shoreline Master Program or official control, said Master Program, official control or amendment thereto shall be submitted to the Department of Ecology for approval. No such Master Program, official control or amendment there to shall become effective until 14 days after written notice of approval by the Department of Ecology is obtained per WAC 173-26-110.

CHAPTER 6.0 Shoreline Management Administrative and Permitting Procedures

The purpose of this chapter is to provide the administrative and permitting procedures for the SMP. Each proposed development within the Shoreline Management Act's jurisdiction will be evaluated to determine its conformance with the use activity policies and regulations, as well as the Shoreline Management Element goals and policies, the SMA, and the SMP. Even uses and activities that are exempt from the requirements for a shoreline substantial development permit must be consistent with the policies and regulations of the SMP, the SMA, and its provisions.

~~The following provisions are codified in Chapter Shoreline Management Administrative and Permitting Procedures.~~

~~Sections:~~

~~16.08.010 Chapter purpose and intent.~~
~~16.08.015 Adoption of shoreline management procedures.~~
~~16.08.020 Definitions.~~
~~16.08.030 Administration and enforcement.~~
~~16.08.040 Application – Generally.~~
~~16.08.050 Application – Notices.~~
~~16.08.052 Statement of Exemption.~~
~~16.08.054 Application – Shoreline substantial development permit – Review criteria.~~
~~16.08.056 Application – Shoreline conditional use permit – Review criteria.~~
~~16.08.058 Application – Shoreline variance – Review criteria.~~
~~16.08.060 Application – Review criteria – Additional information.~~
~~16.08.070 Development conformance burden of proof.~~
~~16.08.080 Application – Hearing – Required.~~
~~16.08.090 Application – Hearing – Official conducting.~~
~~16.08.100 Application – Hearing – Continuance.~~
~~16.08.110 Application – Hearing – Decision.~~
~~16.08.120 Application – Hearing – Rules of conduct.~~
~~16.08.130 Application – Decision final.~~
~~16.08.140 Grant or denial decision – Notifications.~~
~~16.08.150 Development commencement time.~~
~~16.08.160 Termination or review and extension for nondevelopment.~~
~~16.08.170 Conditions or restrictions authorized.~~
~~16.08.180 Issuance limitations.~~
~~16.08.190 Decision appeals.~~
~~16.08.200 Rescission or modification.~~
~~16.08.210 Violation – Penalty.~~
~~16.08.220 Administration rules promulgation.~~

~~16.08~~1.~~010~~ Chapter purpose and intent.

It is the intention of the city council that the provisions of this chapter will promulgate and adopt a program for the administration and enforcement of a permit system that shall implement by reference the State Shoreline Management Act of 1971, Chapter 90.58 RCW; the State Department of Ecology regulations and guidelines adopted as Chapters 173-26 and 173-27 WAC; the Auburn shoreline master program attached to the ordinance codified in this chapter, together with amendments and/or additions thereto, and to provide for the implementation of the policy and standards as set forth in the aforesaid

laws and regulations which are by reference made a part of this chapter with the force and effect as though set out in full in this chapter. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.010.)~~

~~16.08~~1.~~015~~2 Adoption of shoreline management procedures.

The city of Auburn hereby adopts by reference the following sections or subsections of Chapter 173-27 WAC, as amended, entitled "Shoreline Management Permit and Enforcement Procedures."

WAC
173-27-020 Purpose
173-27-040 Developments exempt from substantial development permit requirement
173-27-050 Letter of exemption
173-27-060 Applicability of Chapter 90.58 RCW to federal land and agencies
173-27-090 Time requirements of permit
173-27-100 Revisions to permits
173-27-120 Special procedure for limited utility extensions and bulkheads
173-27-130 Filing with department
173-27-210 Minimum standards for conditional use and variance permits
173-27-270 Order to cease and desist
173-27-280 Civil penalty
173-27-290 Appeal of civil penalty
173-27-300 Criminal penalty
~~(Ord. 6095 § 1, 2008.)~~

~~16.08~~1.~~020~~3 Definitions.

As used in this chapter:

A. "Act" means the Shoreline Management Act of 1971 (Chapter 90.58 RCW) and state departmental regulations pursuant thereto, including any amendments thereto.

~~B. "Committee" means the planning and community development committee of the city council.~~

~~C~~B. "Definitions by reference" means the definitions and concepts set forth in Chapter 6 of the Auburn shoreline master program attached to the ordinance codified in this chapter, the Act (RCW 90.58.030), and state departmental definitions (WAC 173-27-030 and 173-27-250) adopted pursuant thereto which shall also apply as used in this chapter as they would pertain to shorelines within the city limits.

~~D~~C. "Director" means the director of the department of planning and community development of the city, or his duly authorized designee. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 71, 1985; 1957 code § 11.94.020.)~~

~~16.08~~1.~~030~~4 Administration and enforcement.

A. The director shall have the responsibility for the administration of the permit system pursuant to the requirements of the Act and regulations adopted and promulgated by the State Department of Ecology as pertains to the city.

B. The city attorney shall bring such injunctive, declaratory or other actions, which shall include the provisions of Chapter 1.25 ACC, as are necessary to ensure that no uses are made of the shorelines of the city in conflict with the provisions of this chapter or the Shoreline Management Act or in conflict with the master program, rules or regulations adopted pursuant thereto, and to otherwise enforce the

provisions of this chapter and the Act. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4504 § 14, 1991; Ord. 4225 § 1, 1987; 1957 code § 11.94.030.)~~

~~16.08~~1.~~040~~5 Application – Generally.

In addition to the requirements for a completed application as set forth in ACC Title 14, applications for substantial development permits, variances and conditional use permits shall be completed on forms provided by the director. The application shall be substantially consistent with the information required by WAC 173-27-180 including the following information:

A. Completed Joint Aquatic Resource Permit Application (JARPA) form.

B. Completed intake form from WAC 173-27-990, Appendix A – Shoreline Management Act Permit Data Sheet and Transmittal Letter.

C. The name, address, phone number and e-mail address of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

D. The name, address, phone number and e-mail address of the applicant's representative, if other than the applicant.

E. The name, address, phone number and e-mail address of the property owner, if other than the applicant.

F. Location of the Property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

G. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the Act over the project is derived (e.g., Puget Sound).

H. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.

I. A general description of the property as it now exists including its physical characteristics and improvements and structures.

J. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

K. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

1. The boundary of the parcel(s) of land upon which the development is proposed.

2. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

3. Existing and Proposed Land Contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

4. A delineation of all wetland areas that will be altered or used as a part of the development.

5. A general indication of the character of vegetation found on the site.

6. The dimensions and locations of all existing and proposed structures and improvements including but not limited to: buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

7. Where applicable, a landscaping plan for the project.

8. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

9. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

10. Quantity, composition and destination of any excavated or dredged material.

11. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

12. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

L. Copy of completed SEPA environmental checklist, declaration of nonsignificance or environmental impact statement, if required. Note that if the environmental review has not occurred prior to application for a shoreline permit, the time period for application review may be extended.

M. The names, addresses and legal description for each parcel of property within 300 feet of the exterior boundary of the subject property as shown by the records of the King County or Pierce County assessor.

N. Other information, plans, data and diagrams as required by the shoreline administrator.

The director shall determine if the application is complete based upon the information required by this chapter. The application may be submitted by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 72, 1985; 1957 code § 11.94.040(a).)~~

~~16.08~~1.~~050~~6 Application – Notices.

The director shall give notice of the application in accordance with the applicable provisions of ACC 14.07.040, no less than 30 days prior to permit issuance.

The notices shall include a statement that any person desiring to present his view to the director with regard to the application may do so in writing to the director, and any person interested in the hearing examiner's action on an application for a permit may submit his views or notify the director of his interest within 30 days of the last date of publication of the notice. Such notification or submission of views to the director shall entitle said persons to a copy of the action taken on the application. ~~(Ord. 6095 § 1, 2008; Ord. 5811 § 5, 2003; Ord. 5170 § 1, 1998; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 73, 1985; 1957 code § 11.94.040(b).)~~

~~16.08~~1.~~052~~6 Statement of Exemption.

Where development proposals in shoreline jurisdiction are subject to review, approval, and permitting by a federal or state agency, the Director shall prepare a statement of exemption, addressed to the applicant, the federal or state permitting agency, and Ecology. The letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the analysis demonstrating consistency of the project with the Auburn SMP and the SMA.

~~16.08~~1.~~054~~7 Application – Shoreline substantial development permit – Review criteria.

A. A substantial development permit shall be granted by the director only when the development proposed is consistent with the following:

1. Goals, objectives, policies and use regulations of the Auburn SMP;

2. Auburn Comprehensive Plan and Municipal Code; and

3. The policies, guidelines, and regulations of the SMA (Chapter 90.58 RCW; Chapters 173-26 and 173-27 WAC).

B. The director may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria. ~~(Ord. 6095 § 1, 2008.)~~

~~16.08~~1.~~056~~8 Application – Shoreline conditional use permit – Review criteria.

A. Pursuant to WAC 173-27-210, the criteria below shall constitute the minimum criteria for review and approval of a shoreline conditional use permit. Uses classified as conditional uses, and not uses prohibited by the regulations of this SMP, may be authorized; provided, that the applicant can demonstrate all of the following:

1. That the proposed use will be consistent with the policies of RCW 90.58.020, the policies of this SMP, the city of Auburn comprehensive plan and other applicable plans, programs and/or regulations;

2. That the proposed use will not interfere with the normal public use or access to public shorelines;

3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

4. That the proposed use will cause no unreasonably adverse effects to the shoreline, will not result in a net loss of ecological functions, and will not be incompatible with the environment designation or zoning classification in which it is to be located;

5. That the public interest suffers no substantial detrimental effect;

6. That the proposed use is in the best interest of the public health, safety, morals or welfare; and

7. That consideration of cumulative impacts resultant from the proposed use has occurred and has demonstrated that no substantial cumulative impacts are anticipated, consistent with WAC 173-27-160(4).

B. The director may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

C. The decision of the hearing examiner shall be the final decision of the city. The Department of Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200. ~~(Ord. 6095 § 1, 2008.)~~

~~16.08~~1.~~058~~9 Application – Shoreline ~~v~~Variance – Review criteria.

A. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this SMP, and where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. Requests for allowing uses different than those specifically identified as allowed in the shoreline environment cannot be considered in the variance process, but shall be considered through the conditional use process in ACC 16.08.080.

B. Pursuant to WAC 173-27-210, the criteria below shall constitute the minimum criteria for review and approval of a ~~s~~Shoreline ~~v~~Variance permit. Variance permits for development that will be located landward of the ordinary high water mark (per RCW 90.58.030(2)(b) definition), except those areas designated as marshes, bogs or swamps pursuant to Chapter 173-22 WAC, may be authorized, provided the applicant can demonstrate all of the following:

1. That the strict requirements of the bulk, dimensional or performance standards set forth in the master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by this SMP;

2. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and not, for example, from deed restrictions or the applicant's own actions;

3. That the design of the project will be compatible with other permitted activities within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

4. That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the area, and will be the minimum necessary to afford relief; and

5. That the public interest will suffer no substantial detrimental effect;

6. Variance permits for development that will be located either waterward of the ordinary high water mark or within marshes, bogs or swamps as designated in Chapter 173-22 WAC, may be authorized, provided the applicant can demonstrate all the criteria stated above as well as the following:

a. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes all reasonable use of the property not otherwise prohibited by this SMP; and

b. That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

C. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of Chapter 90.58 RCW and should not produce substantial adverse effects to the shoreline environment or result in a net loss of ecological functions.

D. The decision of the hearing examiner shall be the final decision of the city. The Department of Ecology shall be the final authority authorizing a ~~s~~Shoreline ~~v~~Variance consistent with WAC 173-27-200. ~~(Ord. 6095 § 1, 2008.)~~

~~16.08~~1.~~06~~10 Application – Review criteria – Additional information.

A. The director shall review an application for a permit based on the following:

1. The application;

2. The environmental impact statement, if one has been prepared, or other environmental documents;

3. Written comments from interested persons;

4. Information and comments from other city departments affected and from the city attorney;

5. Independent study of the planning department staff and evidence presented at the public hearing held pursuant to provisions of this chapter.

B. The director may require that an applicant furnish information in addition to the information required in the application forms prescribed. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.040(c).)~~

~~16.08~~16.1.~~070~~11 Development conformance burden of proof.

The burden of proving that the proposed development is consistent with the criteria set forth in this chapter and the master plan for the city shall be on the applicant, plus the requirements pursuant to Section 14(6) of the Act. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.040 (d).)~~

~~16.08~~16.1.~~080~~12 Application – Hearing – Required.

A. The hearing examiner shall hold at least one public hearing on each application for a shoreline substantial development permit, shoreline conditional use permit, or ~~s~~Shoreline ~~v~~Variance on shorelines within the city. The public hearing shall be held not less than 30 days following the final publication of the notice required by ACC 16.08.050.

B. The notice and conduct of the public hearing shall be in accordance with Chapter 18.66 ACC. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.050(a).)~~

~~16.08~~16.1.~~090~~13 Application – Hearing – Official conducting.

The public hearing required by ACC 16.08.080 shall be conducted by the hearing examiner. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.050(b).)~~

~~16.08~~16.1.14~~00~~ Application – Hearing – Continuance.

If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the hearing examiner may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 74, 1985; 1957 code § 11.94.050(c).)~~

~~16.08~~16.1.15~~10~~ Application – Hearing – Decision.

When the hearing examiner renders a decision, the hearing examiner shall make and enter written findings from the record and conclusions thereof which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the Act and departmental regulations. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 75, 1985; 1957 code § 11.94.050(d).)~~

~~16.08~~16.1.16~~20~~ Application – Hearing – Rules of conduct.

The hearing examiner shall have the power to prescribe rules and regulations for the conduct of hearings and to issue summonses for and compel the appearance of witnesses, to administer oaths, and to preserve order. The privilege of cross-examination of witnesses shall be accorded all interested persons or their counsel in accordance with the rules of the hearing examiner. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 76, 1985; 1957 code § 11.94.050 (e).)~~

~~16.08~~16.1.17~~30~~ Application – Decision final.

The decision of the hearing examiner shall be the final decision of the city, unless appealed to the State Shorelines Hearings Board, pursuant to ACC 16.08.190. On all applications the hearing examiner shall render a written decision and transmit copies of such decision to persons who are required to receive

copies of the decision pursuant to ACC 16.08.140. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 77, 1985; 1957 code § 11.94.050 (f).)~~

~~16.08~~16.1~~840~~ Grant or denial decision – Notifications.

The director shall notify the following persons in writing of the hearing examiner's final approval, disapproval or conditional approval of a substantial development permit, shoreline conditional use permit, or ~~s~~Shoreline ~~v~~Variance ~~a~~Application within eight days of its final decision:

A. The applicant;

B. The State Department of Ecology;

C. The State Attorney General;

D. Any person who has submitted to the director written comments on the application;

E. Any person who has written the director requesting notification. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 78, 1985; 1957 code § 11.94.060(a).)~~

~~16.08~~16.1~~509~~ Development commencement time.

Development pursuant to a substantial development permit shall not begin and shall not be authorized until 21 days from the date the director files the approved substantial development permit with the State Department of Ecology and Attorney General, or until all review proceedings initiated within 21 days of the date of such filing have been terminated. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 79, 1985; 1957 code § 11.94.060(b).)~~

~~16.08~~16.1~~16~~20 Termination or review and extension for nondevelopment.

Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to this chapter must be undertaken within two years after permit approval or the permit shall terminate. If such progress has not been made, a new permit application will be required. If a project for which a permit has been granted has not been completed within five years after permit approval, the director shall, at the expiration of the five-year period, review the permit; and, upon a showing of good cause, either extend the permit for one year or terminate the permit; provided, that no permit shall be extended unless the applicant has requested such review and extension prior to the permit expiration date. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.060(c).)~~

~~16.08~~16.1.2~~170~~ Conditions or restrictions authorized.

In granting or extending a permit, the director may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed development as he finds necessary to make the permit compatible with the criteria set forth in the Act and state departmental regulations. Such conditions may include the requirement to post a performance bond assuring compliance with other permit requirements, terms and conditions. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.060(d).)~~

~~16.08~~16.1~~180~~22 Issuance limitations.

Issuance of a substantial development permit does not obviate requirements for other federal, state and county permits, procedures and regulations. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.060(e).)~~

~~16.08~~1.~~190~~23 Decision appeals.

Any person aggrieved by the granting, denying or rescission of a substantial development permit by the hearing examiner may seek review from the State Shorelines Hearings Board by filing a petition for review with the board within 21 days of the date of filing, as defined by RCW 90.58.140(6), of the council's final decision. Within seven days of the filing of the petition for review with the board, the person seeking review shall serve a copy of his petition with the State Department of Ecology, the office of the Attorney General and the director. ~~(Ord. 6186 § 3, 2008; Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 80, 1985; 1957 code § 11.94.070.)~~

~~16.08~~1.2~~4~~00 Rescission or modification.

A. Any permit granted pursuant to this chapter may be rescinded or modified upon a finding by the director that the permittee has not complied with the conditions of his permit.

B. The director may initiate rescission and modification proceedings by serving written notice of noncompliance on the permittee.

C. Before a permit can be rescinded or modified, a public hearing shall be held by the hearing examiner no sooner than 30 days following the service of notice upon the permittee. The hearing examiner shall have the power to prescribe rules and regulations for the conduct of such hearings. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; Ord. 4047 § 81, 1985; 1957 code § 11.94.080.)~~

~~16.08~~1.25~~10~~ Violation – Penalty.

A. The criminal and civil penalties contained in the provisions of the State Act are hereby adopted.

B. In addition to the penalties adopted in subsection A of this section, any violation of this chapter may be enforced pursuant to the provisions of Chapter 1.25 ACC. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4504 § 15, 1991; Ord. 4225 § 1, 1987; 1957 code § 11.94.090.)~~

~~16.08~~1.26~~20~~ Administration rules promulgation.

The director is authorized to adopt such rules as are necessary and appropriate to implement this chapter. The director may prepare and require the use of such forms as are necessary to its administration. ~~(Ord. 6095 § 1, 2008; Ord. 4840 § 1, 1996; Ord. 4225 § 1, 1987; 1957 code § 11.94.100.)~~

Exhibit A.

Shoreline Environment Designation Maps

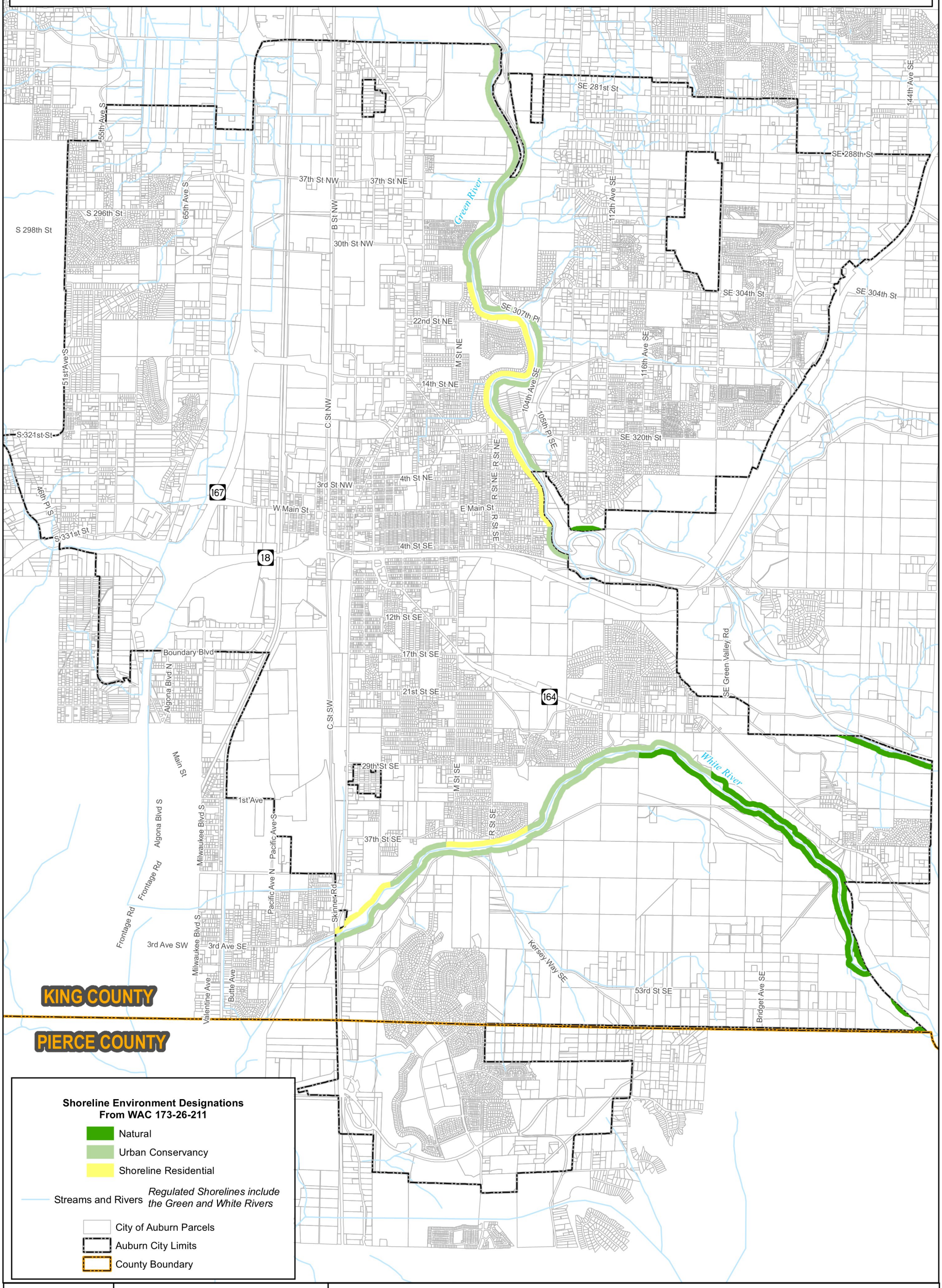
1. Overview Map (~~city~~City-wide)
2. Green River 1
3. Green River 2
4. Green River 3
5. Green River 4
6. White River 1
7. White River 2
8. White River 3
9. White River 4
10. White River 5

CITY OF AUBURN WASHINGTON

Auburn Shoreline Master Program

Shoreline Environment Designations

ADOLFSON



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Map data are the property of the sources listed below. Inaccuracies may exist, and Adolfson Associates, Inc. implies no warranties or guarantees regarding any aspect of data depiction.

SOURCE: City of Auburn GIS, 2006; King County GIS, 2006

SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

*** Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.**

Auburn Shoreline Master Program Update

Shoreline Environment Designations

Neely Bridge Natural A

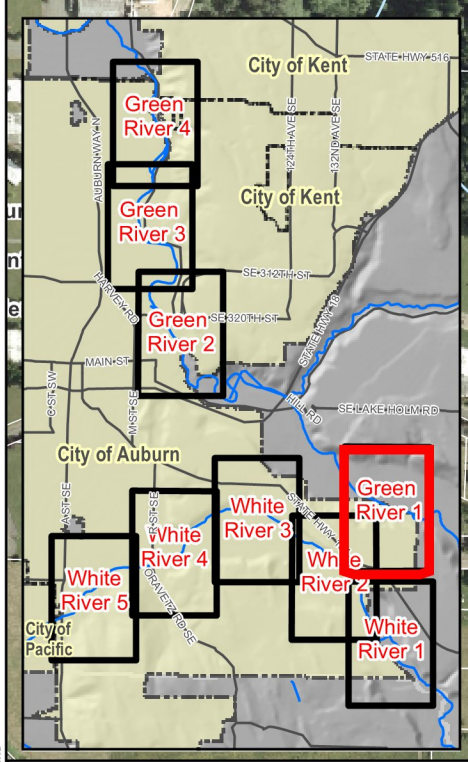
144th Ave SE

Green River

Green Valley Rd

Green River Natural Area

City of Auburn



Cameron Park

Academy Dr SE

35th Pl SE

35th Way SE

Orchard Pl SE

Orchard St SE

37th St SE

37th Pl SE

36th St SE

148th Ave SE

SE 364th St

Lemon Tree Ln

Legend

- City of Auburn Parcels
- City of Auburn Boundary
- City Boundary
- County Boundary
- Parks
- Streams and Rivers

Regulated Shorelines include the Green and White Rivers

Shoreline Environment Designations From WAC 173-26-211

- Natural
- Shoreline Residential
- Urban Conservancy

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Green River 1
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations

CITY OF AUBURN WASHINGTON

ADOLFSON

Green River Trail Site

North Green River Park

Auburndale Park

Scootie Brown Park

Lea Hill Tennis Courts

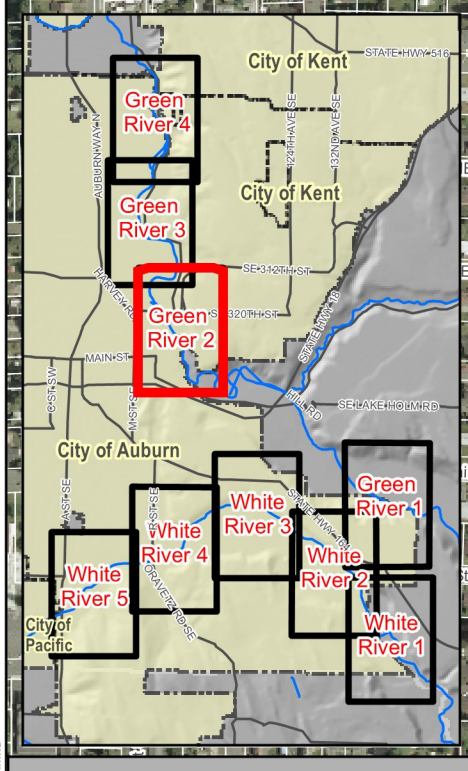
Indian Tom Park

City of Auburn

State Park - Auburn Narrows

Auburn Narrows Natural Area

Green River



Legend

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- City of Auburn Boundary
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- County Boundary
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Regulated Shorelines include the Green and White Rivers

Shoreline Environment Designations From WAC 173-26-211

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Green River 2
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations

Auburn Regional Golf Course

Auburn Regional Golf Course

City of Auburn

Brannan Park

Issac Evans Park

Dykstra Park

State Park - Auburn Narrows

Green River Trail Site

North Green River Park

Green River

John Redington Rd

Green Ivy Rd

31st St NE

30th St NE

28th St NE

26th St NE

24th St NE

22nd St NE

22nd Way NE

21st St NE

20th St NE

19th Dr NE

1st St NE

SE 300th St

SE 301st St

SE 302nd St

SE 303rd Ct

SE 304th St

SE 304th Pl

SE 307th Pl

104th Ave SE

100th Ave SE

106th Ave SE

SE 304th Way

I St NE

J St NE

K St NE

L St NE

M St NE

M Pl NE

N St NE

O St NE

R St NE

U St NE

V St NE

Pike St NE

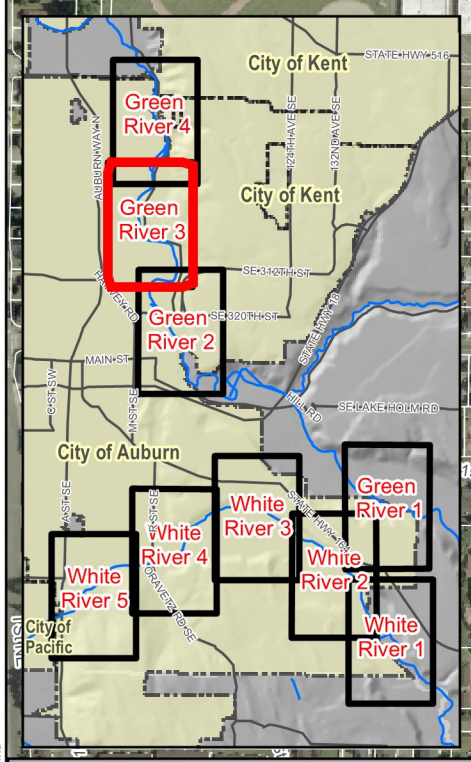
Pike Pl NE

Riverview Dr NE

26th Pl NE

104th Ave SE

106th Pl SE



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- City of Auburn Boundary
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- Streams and Rivers

Regulated Shorelines include the Green and White Rivers

Shoreline Environment Designations From WAC 173-26-211

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Green River 3
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations

S 277th St

Green River Rd

City of Kent

106th Ave SE

SE 279th St

SE 281st St

45th St NE

City of Auburn

Port Mitigation Site

North Green River Park

Valentine Rd

105th Ave SE

Olson Canyon

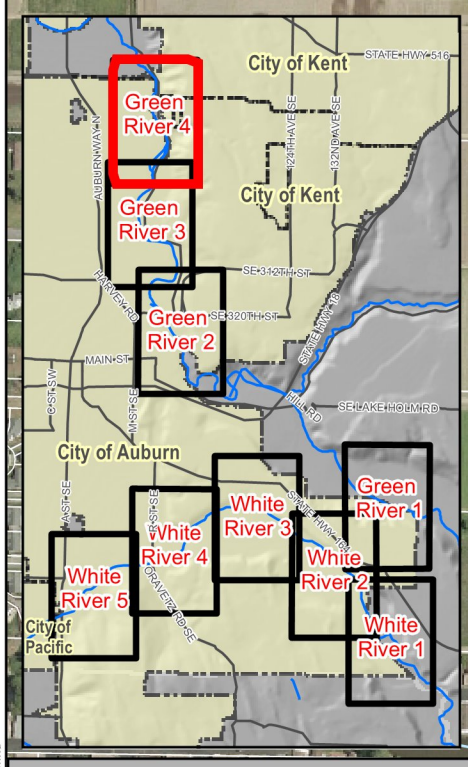
Olson Creek

Green River

John Reddington Rd

Issac Evans Park

Auburn Regional Golf Course



Legend

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- City of Auburn Boundary
- City Boundary
- County Boundary
- Parks
- Streams and Rivers

Regulated Shorelines include the Green and White Rivers

Shoreline Environment Designations From WAC 173-26-211

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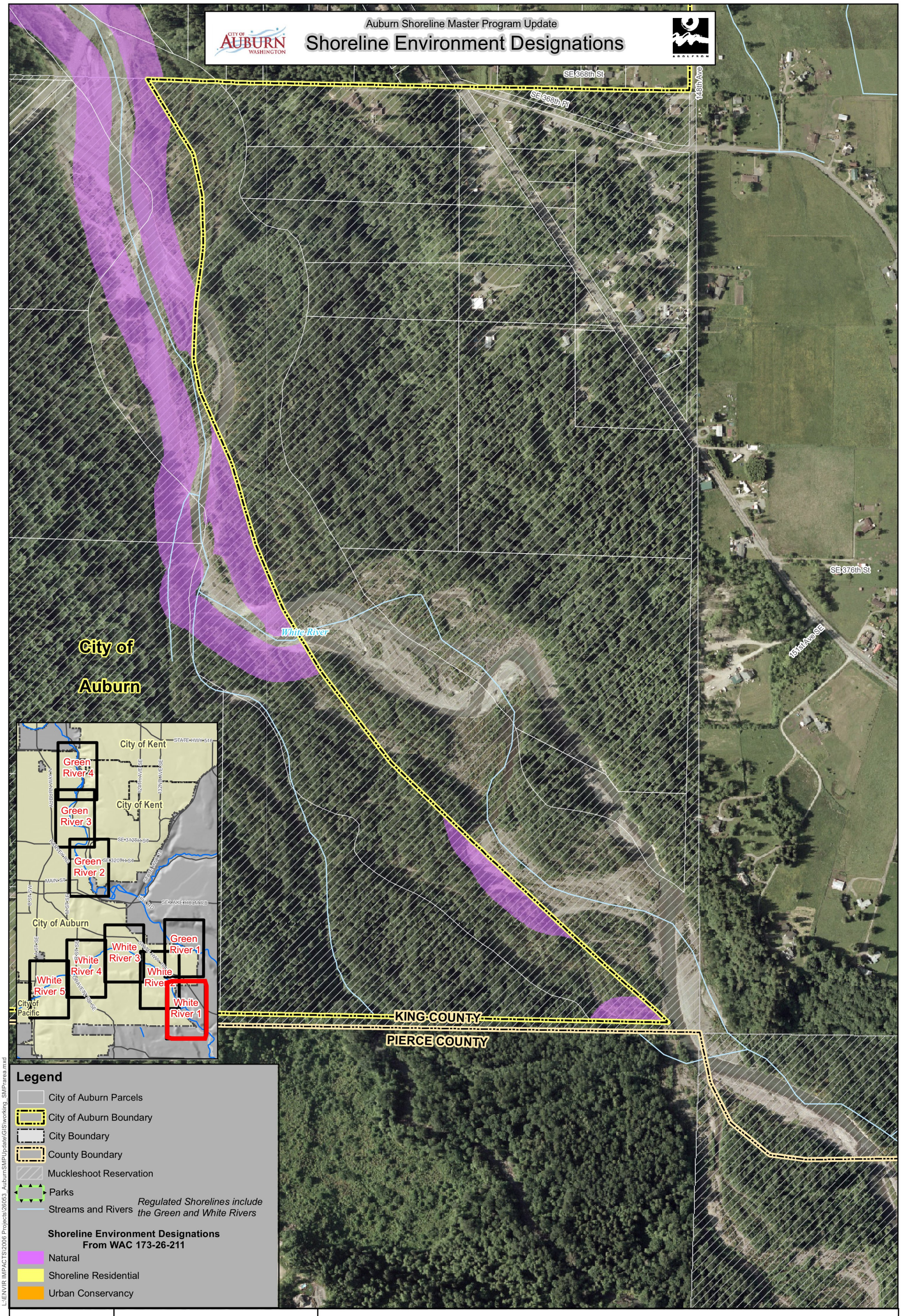
Green River 4
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations



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White River 1
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations

Auburn Adventist Academy

Wyman Dr

32nd St SE

33rd St SE

137th Pl SE

Academy Dr SE

Cameron Park

White River

Stuck River Dr

City of Auburn

Foster Ave SE

Legend

- City of Auburn Parcels
- City of Auburn Boundary
- City Boundary
- County Boundary
- Muckleshoot Reservation
- Parks
- Streams and Rivers

Regulated Shorelines include the Green and White Rivers

Shoreline Environment Designations From WAC 173-26-211

- Natural
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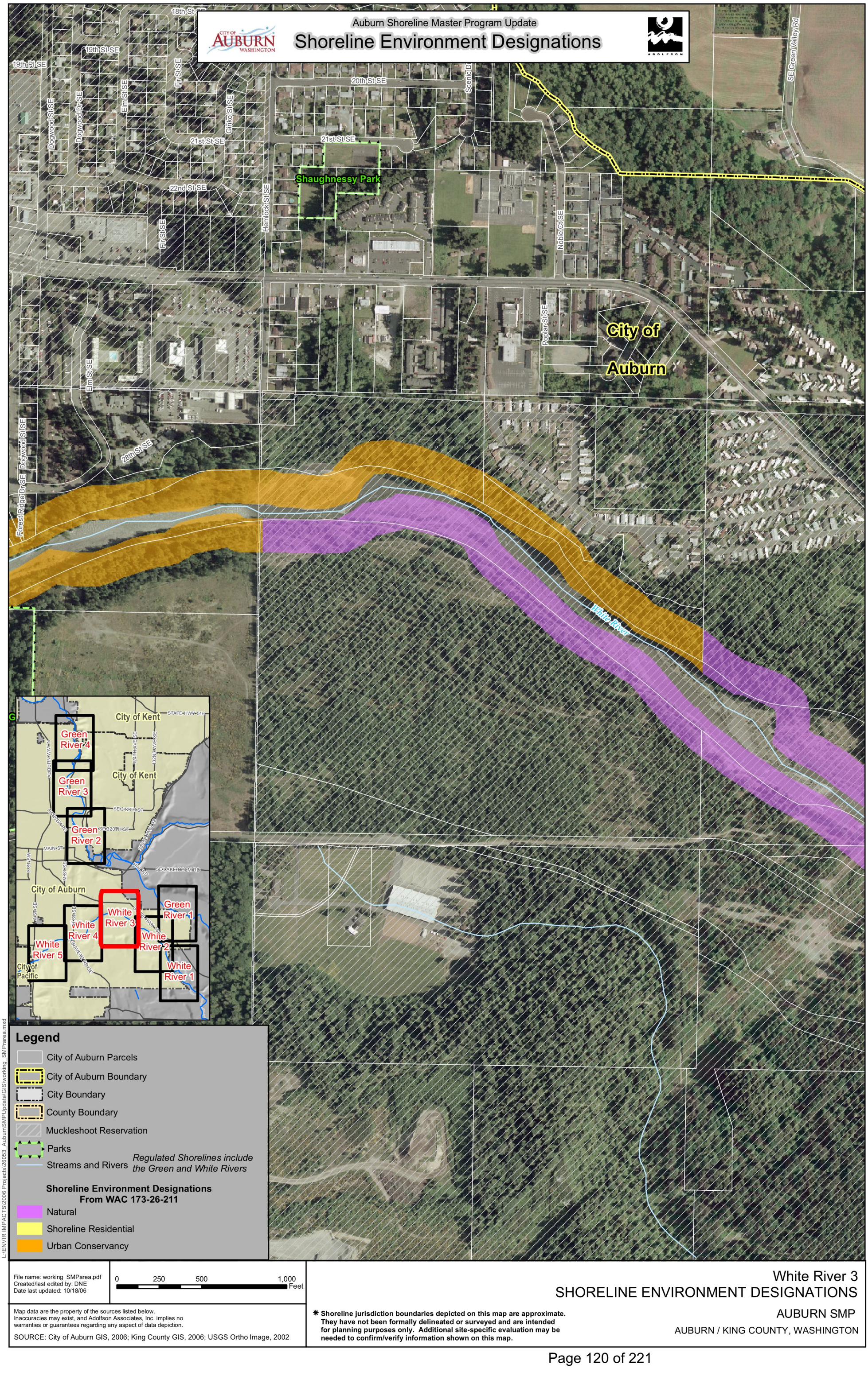
White River 2
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations



Legend

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- City of Auburn Boundary
- City Boundary
- County Boundary
- Muckleshoot Reservation
- Parks
- Streams and Rivers

Regulated Shorelines include the Green and White Rivers

Shoreline Environment Designations From WAC 173-26-211

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White River 3
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations

Rotary Park - Auburn

Auburn Game Farm Park

Game Farm Wilderness Park

Ballard Park

City of Auburn

White River

Stuck River Dr

Howard Rd

25th St SE

26th St SE

27th St SE

28th St SE

29th St SE

30th St SE

31st St SE

32nd St SE

33rd St SE

34th St SE

35th St SE

36th St SE

37th Way SE

37th Pl SE

41st St SE

49th St SE

Riverwalk Dr SE

Riverwalk Dr

28th Ave SE

Forest Ridge Dr SE

Alpine Pl SE

Dogwood St SE

N St SE

28th Pl SE

O St SE

Pike St SE

S St SE

T St SE

U St SE

V Ct SE

27th Pl SE

Alpine St SE

26th Pl SE

Z St SE

R Pl SE

33rd Pl SE

Olympic St SE

V St SE

R St SE

Oravetz Rd

Kersey Way SE

City of Kent

City of Auburn

City of Pacific

Green River 4

Green River 3

Green River 2

Green River 1

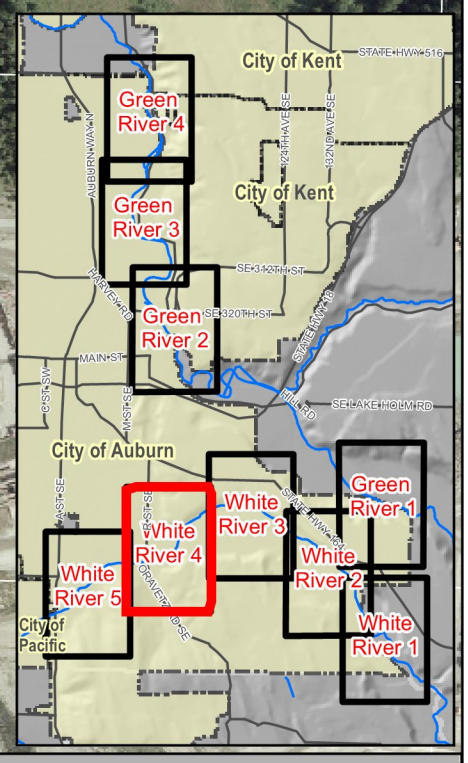
White River 4

White River 3

White River 2

White River 1

White River 5



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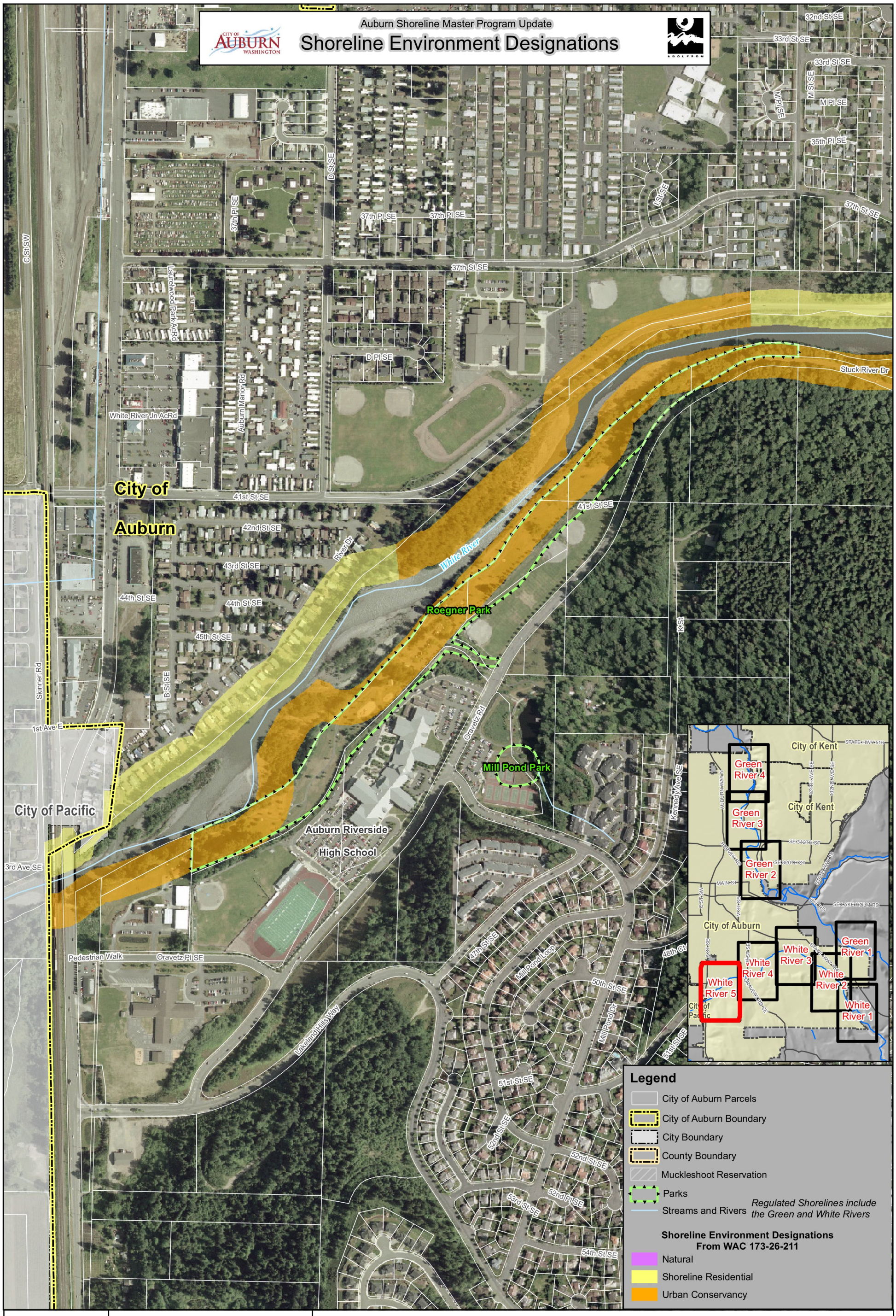
White River 4
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

Auburn Shoreline Master Program Update

Shoreline Environment Designations



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White River 5
SHORELINE ENVIRONMENT DESIGNATIONS

AUBURN SMP

AUBURN / KING COUNTY, WASHINGTON

~~**Appendices**~~

~~A. Critical Area Provisions in Shoreline Jurisdiction (Applicable Sections of ACC Chapter)~~

~~B. ACC Chapter Nonconforming Structures, Land and Uses~~

~~C. Geologic Hazard Report Submittal Requirements~~

~~D. Permit Data Sheet~~

Chapter 16.10

CRITICAL AREAS

Sections:

16.10.010 Purpose and intent.
16.10.020 Definitions.
16.10.030 Applicability – Regulated activities.
16.10.040 Exemptions and nonconforming uses.
16.10.050 Critical areas maps.
16.10.060 Relationship to other regulations.
16.10.070 Critical area review process and application requirements.
16.10.080 Classification and rating of critical areas.
16.10.090 Buffer areas and setbacks.
16.10.100 Alteration or development of critical areas – Standards and criteria.
16.10.110 Mitigation standards, criteria and plan requirements.
16.10.120 Performance standards for mitigation planning.
16.10.130 Monitoring program and contingency plan.
16.10.140 Procedural provisions.
16.10.150 Reasonable use provision.
16.10.160 Variances.
16.10.170 Special exception for public agencies and utilities.
16.10.180 Severability.

16.10.010 Purpose and intent.

A. The city of Auburn contains numerous areas that can be identified and characterized as critical or environmentally sensitive. Such areas within the city include wetlands, streams, wildlife habitat, ~~significant trees,~~ geologic hazards, ~~ground water protection~~aquifer recharge areas, and flood hazards.

B. The city finds that these critical areas perform a variety of valuable and beneficial biological and physical functions that benefit the city and its residents. Alteration of certain critical areas may also pose a threat to public safety or to public and private property or the environment. The city therefore finds that identification, regulation and protection of critical areas are necessary to protect the public health, safety and general welfare. The city further finds that the functions of critical areas and the purpose of these regulations include the following:

1. Wetlands. Wetlands perform a variety of functions that include maintaining water quality; storing and conveying storm water and flood water; recharging ground water; providing important fish and wildlife habitat; and serve as areas for recreation, education and scientific study, and aesthetic appreciation.

Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.

The primary goals of wetland regulation are to avoid adverse effects to wetlands; to achieve no net loss of wetland function and value – acreage may also be considered in achieving the overall goal; to provide levels of protection that reflect the sensitivity of individual wetlands and the intensity of proposed land uses; and to restore and/or enhance existing wetlands, where possible.

2. Streams. Streams and their associated riparian corridors provide important fish and wildlife habitat; help to maintain water quality; store and convey storm water and flood water; recharge ground water; and serve as areas for recreation, education and scientific study and aesthetic appreciation. Stream buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect stream resources from harmful intrusion.

The primary goals of stream regulation are to avoid adverse effects to streams and associated riparian corridors; to achieve no net loss of functions and values of the larger ecosystem in which the stream is located; to protect fish and wildlife resources; to protect water quality through appropriate management techniques; and, where possible, to provide for stream enhancement and rehabilitation.

3. Wildlife Habitat. Wildlife habitat provides opportunities for food, cover, nesting, breeding and movement for fish and wildlife; maintains and promotes diversity of species and habitat; coordinates habitat protection with elements of the open space system; helps to maintain air and water quality; helps control erosion; serves as areas for recreation, education, scientific study, and aesthetic appreciation; and provides neighborhood separation and visual diversity within urban areas.

The primary goals of wildlife habitat regulation are to avoid adverse effects to critical habitats for fish and wildlife; to achieve no net loss of functions and values of the larger ecosystem in which the wildlife habitat is located; to implement the goals of the Endangered Species Act; to promote connectivity between habitat areas to allow for wildlife movement; to provide multi-purpose open space corridors; and where possible to provide for fish and wildlife habitat enhancement and rehabilitation that reflect the sensitivity of the species.

4. ~~Ground Water Protection~~Aquifer Recharge Areas. ~~Ground water protection~~ Aquifer recharge areas provide a source of potable water and contribute to stream discharge/flow. Such areas contribute to the recharge of aquifers, springs and/or wells and are susceptible to contamination of water supplies through infiltration of pollutants through the soil.

The primary goals of ~~ground water~~aquifer recharge protection regulations are to protect ground water quality by maintaining the quantity of recharge; avoiding or limiting land use activities that pose potential risk of aquifer contamination; and to minimize or avoid adverse effects to ground water ~~protection areas~~ through the application of performance standards, and to comply with the requirements of the Federal Safe Drinking Water Act and Washington Administrative Code that require Group A public water systems to develop and implement a wellhead protection program.

5. Geologically Hazardous Areas. Geologically hazardous areas means ~~include lands or~~ areas that because of their susceptibility ~~characterized by geologic, hydrologic and topographic conditions that render them susceptible to varying degrees of risk of landslides,~~to erosion, sliding, ~~seismic~~ earthquake, ~~or~~ volcanic activity, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health of safety concerns.

The primary goals of regulating geologic hazards are to avoid and minimize potential impacts to life and property by regulating and/or limiting land uses where necessary, and to conduct appropriate levels of analysis and ensure sound engineering and construction practices to address identified hazards.

6. Flood Hazard Areas. Floodplains help to store and convey storm water and flood water; recharge ground water; provide important areas for riparian habitat; and serve as areas for recreation, education, and scientific study. Development within floodplain areas can be hazardous to those inhabiting such development, and to those living upstream and downstream. Floods also cause substantial damage to public and private property that results in significant costs to the public and individuals.

The primary goals of flood hazard regulations are to limit or condition development within the regulatory floodplain to avoid substantial risk of damage to public and private property and that results in significant costs to the public and individuals; to avoid significant increases in peak storm water flows or loss of flood storage capacity; to protect critical habitat for fish and wildlife, and to meet the purposes set forth in Chapter 15.68 ACC. Requirements for the identification, assessment, alteration, and mitigation of flood hazard areas are contained in Chapter 15.68 ACC.

C. This chapter of the Auburn City Code and other sections as incorporated by reference contain standards, procedures, criteria and requirements intended to identify, analyze, and mitigate potential impacts to the city's critical areas, and to enhance and restore degraded resources where possible. The general intent of these regulations is to avoid impacts to critical areas. In appropriate circumstances, impacts to specified critical areas resulting from

regulated activities may be minimized, rectified, reduced and/or compensated for, consistent with the requirements of this chapter.

D. It is the further intent of this chapter to:

1. Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and implement rules to identify and protect critical areas and to perform the review of development regulations required by RCW 36.70A.215;

2. Develop and implement a comprehensive, balanced and fair regulatory program that avoids impacts to critical resources where possible, that requires that mitigation be performed by those affecting critical areas, and that thereby protects the public from injury, loss of life, property or financial losses due to flooding, erosion, landslide, seismic events, soil subsidence, or steep slope failure;

3. Implement the goals and policies of the Auburn comprehensive plan, including those pertaining to natural features and environmental protection, as well as goals relating to land use, housing, economic development, transportation, and adequate public facilities;

4. Serve as a basis for exercise of the city's substantive authority under the State Environmental Policy Act (SEPA) and the city's environmental review procedures, where necessary to supplement these regulations, while also reducing the city's reliance on project-level SEPA review;

5. Provide consistent standards, criteria and procedures that will enable the city to effectively manage and protect critical areas while accommodating the rights of property owners to use their property in a reasonable manner;

6. Provide greater certainty to property owners regarding uses and activities that are permitted, prohibited, and/or regulated due to the presence of critical areas;

7. Coordinate environmental review and permitting of proposals involving critical areas with existing development review and approval processes to avoid duplication and delay pursuant to the Regulatory Reform Act, Chapter 36.70B RCW;

8. Establish conservation and protection measures for threatened and endangered fish species in compliance with the requirements of the Endangered Species Act and the Growth Management Act requirements to preserve or enhance anadromous fisheries, WAC 365-195-925;

9. Alert members of the public, including appraisers, assessors, owners, potential buyers or lessees, to the development limitations of critical areas and their required buffers.

E. Best Available Science. The city has considered and included the best available science in developing these regulations, consistent with RCW 36.70A.172 and WAC 365-195-900, et seq. This has been achieved through research and identification of relevant technical sources of information, consultation with experts in the disciplines covered by this chapter, and consultation and requests for technical information regarding best available science from state and federal resource agencies.

Preparation of this chapter has included the use of relevant nonscientific information, including consideration of legal, social, policy, economic, and land use issues. This reflects the city's responsibilities under numerous laws and programs, including other provisions of the Growth Management Act, and the need to weigh and balance various factors as part of decision making to accomplish municipal objectives. This may result in some risk to the functions and values of some critical areas, however, it is recognized that the Growth Management Act requires the City to designate and protect critical areas. The city will also use its authority under the State Environmental Policy Act (SEPA) to identify, consider and mitigate, where appropriate, significant adverse effects on critical resources not otherwise addressed by the regulations of this chapter.

The city intends to review and monitor implementation of its critical areas regulations and to use an adaptive management approach. It will make adjustments to the regulations, as appropriate, in response to changing conditions, new information about best available science, or empirical data indicating the effectiveness of its

regulatory program. This will occur in the context of the city's ongoing review and revision of its comprehensive plan and development regulations pursuant to the Growth Management Act.

Additional information, both scientific and nonscientific, regarding compliance with WAC 365-195-915(c), including identification of risks to resources and Washington State Department of Ecology guidance, is contained in the findings and conclusions and the overall record supporting adoption of Auburn's critical areas regulations. (Ord. 6295 § 3, 2010; Ord. 5894 § 1, 2005.)

16.10.020 Definitions.
For purposes of this chapter, the following definitions shall apply:

"Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment, such as salmon, steelhead, sea-run cutthroat, and bull trout.

"Applicant" means the person, party, firm, corporation, or other entity that proposes or has performed any activity that affects a critical area.

"Aquifer" means, generally, any water bearing soil or rock unit. Specifically, a body of soil or rock that contains sufficient saturated permeable material to conduct ground water and yield economically significant quantities of ground water to wells or springs.

"Artificially created wetlands" means wetlands created from nonwetland sites through purposeful, legally authorized human action, such as irrigation and drainage ditches, grass-lined swales, canals, retention or detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

"Aquifer Recharge Area" means areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

"Best Available Science." As defined in the Procedural Criteria for Adopting Comprehensive Plans and Development Regulations for Best Available Science at WAC 365-195-900, et seq.

"Buffer or buffer area, critical area" means a naturally vegetated, undisturbed, enhanced or revegetated zone surrounding a critical area that protects the critical area from adverse impacts to its integrity and value, and is an integral part of the resource's ecosystem.

"City" means the city of Auburn.

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site, which exposes the earth's surface of the site, or any actions, which disturb the existing ground surface.

"Comprehensive plan" means the city of Auburn comprehensive plan as now adopted or hereafter amended.

"Critical areas" or "environmentally sensitive areas" means areas that possess important natural functions and embody a variety of important natural and community values. Such areas include wetlands, streams, fish and wildlife habitat, geologically hazardous areas, ~~ground water protection areas~~ aquifer recharge areas, and flood hazard areas. If not conducted properly, development or alteration of such areas may cause significant impacts to the valuable functions and values of these areas and/or may generate risks to the public health and general welfare, and/or to public and private property.

"Critical area report" means a report prepared by a qualified consultant to determine the presence, type, class, size, function and/or value of an area subject to these regulations. Also see "Stream and/or Wetland reconnaissance report," "Wetland impact assessment report" and "Wildlife report."

"Critical erosion hazard areas" means lands or areas underlain by soils identified by the U.S. Department of Agriculture Soil Conservation Service (SCS) (now known as the Natural Resource Conservation Service) as having "severe" or "very severe" erosion hazards. This includes, but is not limited to, the following group of soils when they occur on slopes of 15 percent or greater: Alderwood-Kitsap (AkF), Alderwood gravelly sandy loam (AgD),

Kitsap silt loam (KpD), Everett (EvD), and Indianola (InD). Additional soil groups may be identified through site-specific analysis.

"Critical geologic hazard areas" means lands or areas subject to high or severe risks of geologic hazard, including critical erosion hazard areas, critical landslide hazard areas, critical volcanic hazard areas, and critical seismic hazard areas.

"Critical habitat" or "critical wildlife habitat" means habitat areas associated with threatened, endangered, or sensitive species of plants or wildlife (pursuant to WAC 232-12-297(2.4), (2.5) and (2.6)) and which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term.

"Critical landslide hazard areas" means lands or areas where there is a high (Class III) or very high (Class IV) risk of landslide due to a combination of slope, soil permeability, and water.

"Critical seismic hazard areas" means lands or areas where there is a high risk of seismic events and damage.

"Delineation manual," "wetland delineation manual," or "wetland delineation methodology" means the ~~manual and~~ methodology used for ~~to identify wetlands in the field, as described in the Washington State Wetlands Identification and Delineation Manual (Publication No. 96-94), adopted by the Department of Ecology in 1997 (pursuant to RCW 36.70A.175 and 90.58.380), and which is based on the U.S. Corps of Engineers Wetlands Delineation Manual (1987). Use of this manual is required by RCW 36.70A.175 and 90.58.380~~identification of wetlands and delineation of their boundaries and shall be done in accordance with the approved federal wetland delineation manual and the Western Mountains, Valleys, and Coast Regional supplement, as required by WAC 173-22-035.

"Department" means the city of Auburn department of ~~planning and~~ community development ~~development~~ or successor agency, unless the context indicates a different city department.

"Director" means the director of the city of Auburn department of community development ~~department of planning and development~~ or successor agency.

"Earth/earth material" means naturally occurring rock, soil, stone, sediment, or combination thereof.

"Enhancement" means the improvement of an existing viable wetland, stream or habitat area or the buffers established for such areas, through such measures as increasing plant diversity, increasing wildlife habitat, installing environmentally-compatible erosion controls, increasing structural diversity or removing plant or animal species that are not indigenous to the area. Enhancement also includes actions performed to improve the quality of an existing degraded wetland, stream, or habitat area. See also "Restoration."

"Erosion" means a process whereby wind, rain, water, and other natural agents mobilize and transport soil particles.

"Erosion hazard areas" means lands or areas that, based on a combination of slope inclination and the characteristics of the underlying soils, are susceptible to varying degrees of risk of erosion. Erosion hazard areas are classified as "low" (areas sloping less than 15 percent) or "high" (areas sloping 15 percent or more) on the following Soil Conservation Service (SCS), now known as the Natural Resource Conservation Service (NRCS), soil types: Alderwood-Kitsap (AkF), Alderwood gravelly sandy loam (AgD), Kitsap silt loam (KpD), Everett (EvD) and Indianola (InD). Additional soil groups may be identified through site-specific analysis.

"Excavation" means the removal or displacement of earth material by human or mechanical means.

"Existing and ongoing agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock. Such activity must have been in existence as of July 1, 1990 (the effective date of the Growth Management Act). The definition includes, but is not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities or crops, and normal operation, maintenance or repair of existing serviceable structures, facilities, or improved areas. Activities, which bring an area into agricultural use from a previous nonagricultural use, are not considered part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer

than five years, unless the idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition.

"Exotic" means any species of plant or animal that is foreign and not indigenous to the lower Puget Sound area.

"Fill/fill material" means a deposit of earth material placed by human or mechanical means.

"Filling" means the act of transporting and placing (by any manner or mechanism) fill material from, to, or on any surface water body or wetland, soil surface, sediment surface, or other fill material.

"Geologically hazardous areas" means ~~lands or~~ areas characterized by geologic, hydrologic, and topographic conditions that render them susceptible to ~~varying degrees of risk of landslides,~~ erosion, sliding, ~~seismic~~ earthquake, or ~~volcanic activity~~other geological events.

"Geotechnical report" means a report prepared in accordance with the City's Engineering Design Standards.

"Grading" means any excavating, filling, clearing, leveling or contouring of the ground surface by human or mechanical means.

"Ground water protection areas" means land areas designated by the city beneath which ground water occurs that is a current or potential future source of drinking water for the city. Please see the definition of "aquifer recharge areas" for additional regulated areas.

"Habitat management" means management of land and its associated resources/features to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases.

~~"Hazardous materials" means any material, either singularly or in combination, that is a physical or health hazard as defined and classified in Article 80 of the Uniform Fire Code as adopted or amended by the city, whether the materials are in usable or waste condition; and any material that may degrade ground water quality when improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise mismanaged. Hazardous materials shall also include, without exception:~~

~~1. All materials defined as or designated by rule as a dangerous waste or extremely hazardous waste under Chapter 70.105 RCW and Chapter 173-303 WAC;~~

~~2. Any substance defined as or designated by rule as a hazardous substance under Chapter 70.105 RCW and Chapter 173-303 WAC; and~~

~~3. Petroleum or petroleum products, including any waste oils or sludges.~~

~~"Hazardous materials inventory statement" means a form provided by the fire department and completed by a business owner that provides specified information regarding hazardous materials at the business.~~

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303 or RCW 70.105.

~~"Hydrologically isolated" means wetlands which: (1) have no surface water connection to a lake, river, or stream during any part of the year; (2) are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream; and (3) have no contiguous hydric soil between the wetland and any lake, river, or stream. May also be a pond excavated from uplands with no surface water connection to a stream, lake, or other wetland.~~

"In-kind wetland mitigation" means replacement of wetlands with wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

"Injection well" means a "well" that is used for the subsurface emplacement of fluids. (From WAC 173-218-030.)

“Intentionally created streams” means streams created through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. This definition does not include stream modifications performed pursuant to city authorization, such as changes or redirection of stream channels.

“Lahar” means mudflows or debris flows associated with volcanic activity and which pose a threat to life, property, and structures.

“Landslide” means episodic downslope movement of a mass of soil or rock.

“Landslide hazard areas” means areas that, due to a combination of slope inclination, relative soil permeability, and hydrologic conditions are susceptible to varying degrees of risk of landsliding. Landslide hazard areas are classified as Classes I through IV based on the degree of risk as follows:

1. Class I/Low Hazard. Areas with slopes of 15 percent or less.

2. Class II/Moderate Hazard. Areas with slopes of between 15 percent and 40 percent and that are underlain by soils that consist largely of sand, gravel or glacial till.

3. Class III/High Hazard. Areas with slopes between 15 percent and 40 percent that are underlain by soils consisting largely of silt and clay.

4. Class IV/Very High Hazard. Areas with slopes steeper than 15 percent with identifiable zones of emergent water (e.g., springs or ground water seepage), areas of identifiable landslide deposits regardless of slope and all areas sloping more steeply than 40 percent.

The slopes referenced above include only those where the surface drops 10 feet or more vertically within a horizontal distance of 25 feet.

“Mature and old-growth forested wetlands” means wetlands containing mature or old-growth forested areas, generally requiring a century or more to develop. These systems represent two priority habitats, as defined by the Washington State Department of Fish and Wildlife.

“Mitigation” means activities which include:

1. Avoiding the impact altogether by not taking a certain action or parts of actions.;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;.

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;.

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;. and/or

6. Monitoring the impact and taking appropriate corrective measures.

While monitoring without additional actions is not considered mitigation for the purposes of these regulations, it shall be part of a comprehensive mitigation program.

“Mitigation sequencing” means considering or performing mitigation actions, as defined in the definition of “mitigation,” in a preferred sequence from (1) through (5). Avoidance is preferred and must be considered prior to pursuing other forms of mitigation.

“Native” means any species of plant or animals which are or were indigenous to the lower Puget Sound area.

“Natural heritage wetlands” means wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality, relatively undisturbed wetlands, or wetlands that support state-listed threatened or endangered plants.

“Off-site mitigation” means performance of mitigation actions, pursuant to standards established in this chapter, on a site or in an area other than that proposed for conduct of a regulated activity.

“Out-of-kind mitigation” means replacement of wetlands or habitat with substitute wetlands or habitat whose characteristics do not closely approximate those adversely affected, destroyed, or degraded by a regulated activity.

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants after development, construction, or restoration.

“Plant association of infrequent occurrence” means one or more plant species which because of the rarity of the habitat and/or the species involved, or for other botanical or environmental reasons, do not often occur in the city of Auburn. Examples include but are not limited to:

1. Wetlands with a coniferous forested class or subclass consisting of trees such as western red cedar, Sitka spruce, or lodge pole pine growing on organic soils;

2. Bogs with a predominance of sphagnum moss, or those containing sphagnum moss, and typically including one or more species such as Labrador tea, sundew, bog laurel, or cranberry.

“Qualified consultant,” for purposes of these regulations, shall mean a person who has attained a degree from an accredited college or university in the subject matter necessary to evaluate the critical area in question (e.g., biology, ecology, or horticulture/arboriculture for wetlands, streams, wildlife habitat, and geology and/or civil engineering for geologic hazards, and hydrogeologist for ~~ground water protection~~aquifer recharge areas), and/or who is professionally trained and/or certified or licensed by the state of Washington to practice in the scientific disciplines necessary to identify, evaluate, manage, and mitigate impacts to the critical area in question. In addition, a qualified consultant for wetlands and streams must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetland reports, conducting function assessments, and development and implementing mitigation plans. A qualified consultant for aquifer recharge areas must be a currently licensed Washington State geologist holding a current specialty license in hydrogeology.

“Reasonable use” means a legal concept articulated by federal and state courts in regulatory taking cases.

“Regulated activities” means activities that have a potential to significantly impact a critical area that is subject to the provisions of this chapter. Regulated activities generally include, but are not limited to, any filling, dredging, dumping or stockpiling, release of contaminants to soil or water, draining, excavation, flooding, clearing or grading, construction or reconstruction, driving pilings, obstructing, clearing, or harvesting.

“Restoration” means actions taken to re-establish wetland, stream or habitat functional values, and the characteristics that have been destroyed or degraded by past alterations (e.g., filling or grading). See also “Enhancement.”

“Salmonids” means the family of fish which includes salmon, trout, and char.

“Secondary habitat” means areas that offer less diversity of animal and plant species than critical habitat but are important for performing the essential functions of habitat.

“Seismic hazard areas” means areas that, due to a combination of soil and ground water conditions, are subject to risk of ground shaking, subsidence, or liquefaction of soils during earthquakes. These areas are typically underlain by soft or loose saturated soils (such as alluvium), have a shallow ground water table, and are typically located on the floors of river valleys.

"Site" means the location containing a regulated critical area and on which a regulated activity is proposed. The location may be a parcel or portion thereof, or any combination of contiguous parcels where a proposed activity may impact a critical area.

"Slope" means an inclined earth surface, the incline of which is expressed as the ratio of horizontal distance to vertical distance. The slopes referenced above includes only those where the surface drops 10 feet or more vertically within a horizontal distance of 25 feet.

"Sole source aquifer" means an area formally designated as such by the U.S. Environmental Protection Agency under the federal Safe Drinking Water Act.

"Spring" means a source of water where an aquifer comes in contact with the ground surface.

"Stream or wetland reconnaissance report" means a type of critical area report prepared by an applicant's qualified consultant to describe a stream or wetland and to characterize its conditions, source of hydrologic support, wildlife, habitat values and water quality. The report may also includes an analysis of impacts but generally does not include adequate impact assessment and definition of a mitigation proposal sufficient to meet all the requirements of a more comprehensive critical areas report.

"Streams" means those areas where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not intended to include artificially created irrigation ditches, canals, storm or surface water devices, or other entirely artificial watercourses unless they are used by salmonids or created for the purposes of stream mitigation.

"Structural diversity, vegetative" means the relative degree of diversity or complexity of vegetation in a wildlife habitat area as indicated by the stratification or layering of different plant communities (e.g., ground cover, shrub layer and tree canopy), the variety of plant species and the spacing or pattern of vegetation.

"Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland, lake, stream, or river.

"Temporary erosion control" means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity, or pollutants during development, construction, or restoration.

"Tertiary habitat" means habitat that supports some wildlife but does not satisfy the definition of secondary or critical habitat.

"Tree" means any self-supporting perennial woody plant characterized by natural growth of one main stem or trunk with a definite crown, and maturing at a height of at least six feet above the ground.

"Tree base fee" means the current cost of the tree based on species and minimum code required installation size, installation (labor and equipment) maintenance for two years and fund administration.

"Utility" includes natural gas, electric, telephone and telecommunications, cable communications, water, sewer or storm drainage and their respective facilities, lines, pipes, mains, equipment and appurtenances.

"Variance" means permission to depart from the requirements of the specific regulations of this title for a particular piece of property.

"Volcanic hazard areas" means areas identified by the U.S. Geological Survey (maps dated 1998 or as hereafter revised) as subject to a risk of large lahars with a recurrence interval of 500 to 1,000 years.

"Water dependent use" means a principal use which can only exist when the land/water interface provides biological or physical conditions necessary for the use.

~~"Well" includes any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of an excavation is for the location, diversion, artificial recharge, or withdrawal of ground water.~~

"Wellhead protection area" means the portion of a well's, wellfield's or spring's zone of contribution within the ten-year time of travel boundary, or boundaries established using alternate ~~defined as such using the~~ criteria approved ~~established~~ by the ~~city~~ state Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion~~.~~

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. ~~However, w~~Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. (Definition taken from ~~the Washington State Wetlands Identification and Delineation Manual, Ecology Publication No. 96-94.~~RCW 36.70A.030(23))

"Wetland impact assessment report" means a report prepared by a qualified consultant that identifies, characterizes and analyzes potential impacts to wetlands consistent with applicable provisions of these regulations. A wetland impact assessment may be combined with and include a formal wetland delineation.

"Wetland mosaic" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

"Wildlife report" means a report prepared by a qualified consultant that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this chapter. The report also includes an analysis of impacts. (Ord. 6287 § 2, 2010; Ord. 5894 § 1, 2005.)

16.10.030 Applicability – Regulated activities.

A. The provisions of this chapter shall apply to any activity that potentially affects a critical area or its buffer unless otherwise exempt. Such regulated activities include but are not limited to:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;

2. Dumping, discharging or filling with any material;

3. Draining, flooding or disturbing the water level or water table, or diverting or impeding water flow;

4. Driving pilings or placing obstructions;

5. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure;

6. Destroying or altering vegetation through clearing, grading, harvesting, shading, or planting vegetation that would alter the character of or impact a critical area;

7. Release of contaminants to soil or water;

8. Activities that result in significant changes in water temperature, physical or chemical characteristics of water sources, including quantity and pollutants; and

9. Any other activity potentially affecting a critical area or buffer not otherwise exempt from the provisions of this chapter as determined by the director.

B. To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of this chapter: land clearing; grading; subdivision or short subdivision; building permit; planned unit development (if permitted by the city code); shoreline substantial development; variance; conditional use permit; and any other permits that may lead to the development or alteration of land.

C. Administrative actions, such as rezones, annexations, and the adoption of plans and programs, shall be subject to the requirements of this chapter. However, the director may, using discretion, permit any studies or evaluations required by this chapter to use methodologies and provide a level of detail appropriate to the administrative action proposed. (Ord. 6187 § 3, 2008; Ord. 5991 § 3, 2006; Ord. 5894 § 1, 2005.)

16.10.040 Exemptions and nonconforming uses.

A. The following activities performed on sites containing critical areas as defined by this chapter shall be exempt from the provisions of this chapter:

1. Existing and ongoing agricultural activities, as defined in this chapter;

2. Activities involving artificially created wetlands or streams intentionally created from nonwetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, retention or detention facilities, and landscape features, except wetlands or streams created as mitigation or that provide critical habitat for salmonids and except when the site contains another critical area;

3. Normal and routine maintenance, operation, repair and reconstruction of existing roads, streets, utilities and associated structures; provided, that reconstruction of any structures may not increase the impervious area and may not cause further encroachment on the critical area or its buffer, and may not result in adverse impacts to surface water and ground water quality. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species;

4. Minor Utility and Street Projects. Utility or street projects which have minor or short duration impacts to critical areas, as determined by the director in accordance with the criteria below, and which do not significantly impact the functions or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased storm water. Such allowed minor utility projects shall meet the following criteria:

a. There is no practical alternative to the proposed activity with less impact on critical areas;

b. The activity involves the placement of underground piping, conduit, traffic signal equipment, lighting equipment, utility pole(s), signs, anchor, or vault or other small component of a utility or street facility;

5. Normal maintenance, repair and reconstruction of residential or commercial structures, facilities and landscaping; provided, that reconstruction of any structures may not increase the previous floor area;

6. The addition of floor area within an existing building which does not increase the building footprint;

7. Additions to a legally established single-family residential structure in existence before May 13, 2005, located within a wetland or stream buffer may be permitted if all of the following criteria area met:

a. The addition is no greater than 500 square feet of building footprint over that in existence as of May 13, 2005;

b. The addition is not located closer to the critical area than the existing structure;

c. Impacts on critical area functions are avoided consistent with the purpose and intent of this title and as demonstrated in a critical areas report by a qualified consultant; and

d. There are no changes in slope stability, flood conditions or drainage;

8. Site investigative work and studies that are prerequisite to preparation of an application for development authorization including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of the critical area shall be the minimum necessary to carry out the work or studies;

9. Educational activities, scientific research, and outdoor passive recreational activities, including but not limited to interpretive field trips, birdwatching and hiking, that will not have a significant effect on the critical area;

10. Emergency activities necessary to prevent an immediate threat to public health, safety, property or the environment which requires immediate action within a time too short to allow full compliance with this chapter as long as any alteration undertaken pursuant to this subsection is reported to the city as soon as possible. Only the minimum intervention necessary to reduce the risk to public health, safety or welfare and/or the imminent risk of damage to private property shall be authorized by this exemption. The director shall confirm that an emergency exists or existed and determine what, if any, additional applications and/or measures shall be required to protect the environment consistent with the provision of this section and to repair any damage to a pre-existing resource;

11. Activities affecting previously legally filled wetlands ~~or wetlands accidentally created by human actions prior to July 1, 1990 (the effective date of the Growth Management Act). The latter shall be documented through photographs, statements and/or other conclusive evidence~~;

12. Activities in storm and water quality basins and "wetlands" created by poorly maintained or plugged culverts or lines, and artificially created ditches that are not used by salmonids;

13. Minor activities not mentioned above and determined by the director to have minimal impacts to a critical area.

B. Notwithstanding the exemptions provided by this subsection, any otherwise exempt activities occurring in or near a critical area shall comply with the purpose and intent of these standards and shall consider on-site alternatives that avoid or minimize significant adverse impacts.

C. Exempt activities occurring in flood hazard areas shall not alter flood storage capacity or conveyance except in conformance with floodplain ~~drainage~~ requirements of Chapter 15.68 ACC.

D. No property owner or other entity shall undertake exempt activities in subsections (A)(2), (7) or (13) of this section without first providing 14 days' notice to the city in writing and receiving confirmation in writing that the proposed activity is exempt. In case of any question as to whether a particular activity is exempt from the provisions of this section, the director's determination shall govern and shall be confirmed in writing.

E. An established use or existing structure that was lawfully permitted prior to May 13, 2005, but which is not in compliance with this chapter, shall be deemed a nonconforming use as defined in ACC 18.04.650. Unless otherwise provided for, existing structures, which intrude into critical areas buffers, shall not be reconstructed in such a manner that results in the further intrusion into the buffer area. Structures or developments that are nonconforming solely due to being contrary to the provisions of this chapter shall not be subject to the nonconforming use provisions of Chapter 18.54 ACC. (Ord. 5894 § 1, 2005.)

16.10.050 Critical areas maps.

Maps have been developed by the city that show the general location of critical areas. These maps are available for reference at the city ~~planning and~~department of community development ~~department~~. These maps shall be used for informational purposes as a general guide only for the assistance of property owners and other interested parties; the boundaries and locations shown are generalized. The actual presence or absence, type, extent, boundaries and classification of critical areas on a specific site shall be identified in the field by a qualified consultant and determined by the city, according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the critical area location or designation shown on the city's maps and the criteria or

standards of this section, the criteria, definition, and standards shall prevail. (Ord. 6287 § 2, 2010; Ord. 5894 § 1, 2005.)

16.10.060 Relationship to other regulations.

A. These critical area regulations shall apply as an overlay and in addition to zoning, land use and other regulations established by the city of Auburn. In the event of any conflict between these regulations and any other regulations of the city, the regulations which provide greater protection to critical areas shall apply.

B. Areas characterized by particular critical areas may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some sensitive or critical areas. Wetlands, for example, may be defined and regulated according to the wetland, habitat and stream management provisions of this chapter. In the event of any conflict between overlapping regulations for multiple critical areas on the same site, the regulations which provide greater protection to critical areas shall apply. (Ord. 5894 § 1, 2005.)

C. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval (HPA) permits, Army Corps of Engineers Section 404 permits, National Pollutant Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this Chapter. Where applicable, the director will encourage use of information such as permit applications to other agencies or special studies prepared in response to other regulatory requirements to support required documentation submitted for critical areas review.

16.10.070 Critical area review process and application requirements.

A. Pre-Application Conference. A pre-application conference is available and encouraged prior to submitting an application for a project permit.

B. Application Requirements.

1. Timing of Submittals. Concurrent with submittal of a State Environmental Policy Act (SEPA) checklist, or concurrent with submittal of an application for projects exempt from SEPA, a critical area report must be submitted to the city for review when the city believes that a critical area may be present. The purpose of the report is to determine the extent, characteristics and functions of any critical areas located on or potentially affected by activities on a site where regulated activities are proposed. The report will also be used by the city to determine the appropriate critical area classification and, if applicable, to establish appropriate buffer requirements.

2. Report Contents. Reports and studies required to be submitted by this chapter shall contain, at a minimum, the information indicated in the provisions of this chapter applicable to each critical area. The director may tailor the information required to reflect the complexity of the proposal and the sensitivity of critical areas that may potentially be present.

C. Consultant Qualifications and City Review. All reports and studies required of the applicant by this section shall be prepared by a qualified consultant as that term is defined in these regulations. The city may retain a qualified consultant paid for by the applicant to review and confirm the applicant's reports, studies and plans if the following circumstances exist:

1. The city has technical information that is unavailable to the applicant; or

2. The applicant has provided inaccurate or incomplete information on previous proposals or proposals currently under consideration.

D. Review Process. This section is not intended to create a separate critical area review permit for development proposals. To the extent possible, the city shall consolidate and integrate the review and processing of critical area-related aspects of proposals with other land use and environmental considerations and approvals. Any permits required by separate codes or regulations, such as floodplain development permits or shoreline substantial development permits, shall continue to be required. (Ord. 6295 § 4, 2010; Ord. 5894 § 1, 2005.)

16.10.080 Classification and rating of critical areas.

A. To promote consistent application of the standards and requirements of this chapter, critical areas within the city of Auburn shall be rated or classified according to their characteristics, function and value, and/or their sensitivity to disturbance.

B. Classification of critical areas shall be determined by the director based on consideration of the following factors and in the following order:

1. Consideration of the technical reports submitted by qualified consultants in connection with applications subject to these regulations;

2. Application of the criteria contained in these regulations; and

3. Critical areas maps maintained by the ~~planning and~~ department of community development ~~department~~.

C. Wetland Classification. ~~Wetlands shall be designated Category I, Category II, Category III, Category IV and as artificially created according to the criteria in this section.~~ Wetlands ~~classifications~~ shall be rated according to ~~incorporate~~ the Washington Department of Ecology ~~State Wwetlands Rrating Ssystem~~, as set forth in the ~~for Western~~ *Washington State Wetland Rating System for Western Washington: 2014 Update* (~~(Department of~~ Ecology~~,~~ 2004, Publication no. 14-06-029, or as revised and approved by Ecology). ~~Publication No. 04-06-025). Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities.~~ Wetland rating categories shall not change due to illegal modifications.

1. "Category I wetlands" ~~are those~~include wetlands which ~~meet any of the following criteria~~: represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions, as indicated by a rating system score of 23 points or more on the classification system referenced above.

~~a. Represent a unique or rare wetland type; or~~

~~b. Are more sensitive to disturbance than most wetlands; or~~

~~c. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~

~~d. Are providing a high level of functions, scoring 70 points or more out of 100 (DOE Wetlands Rating System, 2004); or~~

~~e. Are characterized as a national heritage wetland; or~~

~~f. Are characterized as a bog; or~~

~~g. Are over one acre and characterized as a mature and old-growth forested wetland.~~

2. "Category II wetlands" ~~are~~: ~~those wetlands which are not Category I wetlands and which meet any of the following criteria:~~

~~a. P~~provide high levels of some functions, being difficult, though not impossible to replace, and~~;~~ have a~~or~~ a moderately high level of functions, scoring between 20 and 22 points.

~~b. Perform most functions relatively well, scoring 51~~ 20 ~~69~~22 ~~out of 100~~27 ~~points (DOE Wetlands Rating System, 20~~104~~)~~.

3. "Category III wetlands" have a score between 16 and 19 points, generally have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II

wetlands. ~~Such wetlands are: are those wetlands that are not Category I or II wetlands, and which meet the following criterion:~~

~~a. Provide moderate levels of functions, scoring between 30 – 50 out of 100 points (DOE Wetlands Rating System, 2004). Wetlands with a moderate level of functions (scoring between 16 and 19 points);~~

~~b. Can often be adequately replaced with a well-planned mitigation project;~~

~~c. Interdunal wetlands between 0.1 and 1 acre.~~

4. "Category IV wetlands" ~~are those wetlands that meet the following criterion:~~ have the lowest levels of functions, scoring fewer than 16 points and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

~~a. Provide low levels of functions, scoring less than 3016 out of 10027 points (DOE Wetlands Rating System, 2014).~~

5. "Artificially created wetlands" are purposefully created landscape features, ponds and storm water detention or retention facilities. Artificially created wetlands do not include wetlands created as mitigation, and wetlands modified for approved land use activities. Purposeful creation must be demonstrated to the director through documentation, photographs, statements and/or other evidence. Artificial wetlands intentionally created from nonwetland sites are excluded from regulation under this section.

D. Stream Classification. Streams shall be classified according to the water typing system as provided in WAC 222-16-030, as amended, and designated as ~~Class I~~Type S, ~~Class II~~Type F, ~~Class III~~Type Np, and ~~Class IV~~Type Ns ~~according to the criteria in this section:~~.

1. "~~Class I~~ Type S streams" are those natural streams identified as "shorelines of the state" under Chapter 90.58 RCW and the city of Auburn shoreline master program.

2. "~~Class II~~Type F streams" are those natural streams that are not Class I streams and are either perennial or intermittent and have one of the following characteristics:

a. Contain fish habitat; or

b. Has significant recreational value, as determined by the director.

3. "~~Class III~~Type Np streams" are those natural streams with perennial (year-round) or intermittent flow and do not contain fish habitat.

4. "~~Class IV~~ Type Ns streams" are those natural streams and drainage swales with channel width less than two feet taken at the ordinary high water mark, that do not contain fish habitat.

5. "Intentionally created streams" are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this section, except manmade streams that provide "critical habitat," as designated by federal or state agencies, for salmonids.

E. Wildlife Habitat Classification. Wildlife habitat areas shall be classified as critical, secondary or tertiary according to the criteria in this section:

1. "Critical habitat" are those habitat areas which meet any of the following criteria:

a. The documented presence of species or habitat listed by federal or state agencies as "endangered," "threatened," or "sensitive"; or

b. The presence of unusual nesting or resting sites such as heron rookeries;

c. Category I wetlands, as defined in these regulations; or

d. ~~Class I~~Type S streams, as defined in these regulations.

2. "Secondary habitat" is habitat which is valuable to fish and wildlife and supports a wide variety of species due to its undisturbed nature, a diversity of plant species and structure, presence of water, or the area's size, location, or seasonal importance.

3. "Tertiary habitat" is habitat which is not classified as critical or secondary. It is habitat which, while supporting some wildlife and performing other valuable functions, does not currently possess essential characteristics necessary to support diverse wildlife communities. Tertiary habitat also includes habitat which has been created purposefully by human actions to serve other or multiple purposes, such as open space areas, landscape amenities, and detention facilities.

F. Aquifer Recharge ~~Ground Water Protection~~ Areas. The following ~~Ground water protection~~ areas are hereby designated as aquifer recharge areas subject to review under this ~~in this~~ chapter. ~~correspond to water resource protection areas,~~:

Type I.

~~which are described in the "Water Resource Protection Report" prepared for the city by Pacific Groundwater Group, December 2000. Water resource protection areas are based on time-related "capture zones" also referred to as "time-of-travel zones" which are derived using a numerical ground water flow model developed for the city and upon geologic conditions. A capture zone is the area that supplies ground water recharge to a pumping well or a spring. A time-related capture zone is the area that supplies ground water recharge to a pumping well or spring within a specified period of time. The location of ground water protection areas have been revised to include all of a parcel where capture zones include a portion of the parcel.~~

~~Ground water protection areas have been divided into four zones as follows:~~

~~1. "Ground water protection zone 1" represents the land area overlying the one-year time-of-travel zone of any well or spring owned by the city.~~

~~2. "Ground water protection zone 2" represents the land area in the central part of the city beneath which the principal aquifer used by the city for water supply is overlain by highly permeable sand and gravel deposits. These geologic conditions provide a direct pathway for contaminants that may be released to the soil to reach the aquifer.~~

~~3. "Ground water protection zone 3" represents the land area overlying the region between the one-year and 10-year time-of-travel zone of any well or spring owned by the city.~~

~~4. "Ground water protection zone 4" represents the land area within the city limits not designated as water resource protection zones 1, 2 or 3.~~

1. Sole source aquifers and wellhead protection areas designated pursuant to the Federal Safe Drinking Water Act.

2. Areas established for special protection pursuant to a ground water management program as described by Chapters 90.44, 90.48 and 90.54 RCW and Chapters 173-100 and 173-200 WAC.

3. Any other area meeting the definition of "areas with a critical recharging effect on aquifers used for potable water" as described in Chapter 365-190 WAC and the Auburn comprehensive plan, including ground water protection areas #1-3 as designated in the "Water Resource Protection Report" prepared for the City by the Pacific Groundwater Group, December 2000.

Type II

1. Ground water protection area #4 as designated in the "Water Resource Protection Report" prepared for the city by the Pacific Groundwater Group, December 2000.

2. Any other area within the city that is not otherwise designated or that is added to the city via annexation shall be treated as a Type II aquifer recharge area.

G. Geologically Hazardous Classifications. Geologically hazardous areas shall be classified according to the criteria in this section:

1. Critical Erosion Hazard Areas. Critical erosion hazard areas are lands or areas underlain by soils identified by the U.S. Department of Agriculture Soil Conservation Service (SCS), now known as the Natural Resource Conservation Service, as having "severe" or "very severe" erosion hazards. This includes the following group of soils when they occur on slopes of 15 percent or greater: Alderwood-Kitsap (AkF), Alderwood gravelly sandy loam (AgD), Kitsap silt loam (KpD), Everett (EvD), and Indianola (InD).

2. Landslide Hazard Areas. Landslide hazard areas are classified as Class I, Class II, Class III, or Class IV as follows:

a. Class I/Low Hazard. Areas with slopes of 15 percent or less.

b. Class II/Moderate Hazard. Areas with slopes of between 15 percent and 40 percent and that are underlain by soils that consist largely of sand, gravel, or glacial till.

c. Class III/High Hazard. Areas with slopes between 15 percent and 40 percent that are underlain by soils consisting largely of silt and clay.

d. Class IV/Very High Hazard. Areas with slopes steeper than 15 percent with mappable zones of emergent water (e.g., springs or ground water seepage), areas of known (mappable) landslide deposits regardless of slope, and all areas with slopes 40 percent or greater.

3. Seismic Hazard Areas. Seismic hazard areas are lands that, due to a combination of soil and ground water conditions, are subject to severe risk of ground shaking, subsidence, or liquefaction of soils during earthquakes. These areas are typically underlain by soft or loose saturated soils (such as alluvium), have a shallow ground water table and are typically located on the floor of river valleys. (Ord. 6287 § 2, 2010; Ord. 5894 § 1, 2005.)

16.10.090 Buffer areas and setbacks.

A. General Provisions. The establishment of on-site buffers, buffer areas or setbacks shall be required for all development proposals and activities in or adjacent to ~~critical areas~~wetlands, streams, wildlife habitat, and geologically hazardous areas. The purpose of the buffer shall be to protect the integrity, function, value, and resources of the subject critical area (in the case of wetlands, streams, and/or wildlife habitat areas), and/or to protect life, property and resources from risks associated with development on unstable or critical lands (in the case of geologically hazardous areas). Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by this section. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan. Buffers shall be protected during construction by placement of a temporary barricade, notice of the presence of the critical area and implementation of appropriate erosion and sedimentation controls. Restrictive covenants or conservation easements may be required to provide long-term preservation and protection of buffer areas.

B. Required buffer widths shall reflect the sensitivity of the particular critical area and resource or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity proposed to be conducted on or near the critical area.

C. Buffers shall be measured as follows:

1. Wetland buffers – the buffer shall be measured perpendicular from the wetland edge as delineated and marked in the field using the ~~1997 Washington State~~ approved federal ~~W~~wetlands ~~Identification and D~~delineation ~~M~~manual and the Western Mountains, Valleys, and Coast Regional supplement. Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary;

2. Stream buffers – the buffer shall be measured perpendicular from the ordinary high water mark;

3. Geologically hazardous area buffers shall be required for critical landslide hazard areas and shall be measured from the top and toe and along the sides of the slope.

D. Buffer Width Variances. A variance from buffer width requirements may be granted by the city subject to the variance criteria set forth in ACC 16.10.160. Minor variances, defined as up to and including 10 percent of the requirement, shall be considered by the director. Variance requests which exceed 10 percent shall be considered by the hearing examiner.

E. Buffer widths shall be established for specific critical areas according to the following standards and criteria:

1. Wetland buffers shall be established ~~as follows:~~ per the following table. Different buffer width requirements may apply to various portions of a site, without requiring averaging or variances, based on the site plan, the intensity of land uses in various locations, and differences in the category of wetland.

Wetland Category	**Minimum Buffer Width (in feet) with Minimization Measures listed in ACC 16.10.090(E)(2)**			**Min~~a~~imum Buffer Width (in feet) without Minimization Measures listed in ACC 16.10.090(E)(2)** ~~(see subsection (E)(1) (g) of this section)~~		
	Habitat Score*			**Habitat Score***		
	Low (3-5)	**Medium (6-7)**	**High (8-9)**	**Low (3-5)**	**Medium (6-7)**	**High (8-9)**
Category I	~~100 feet~~75	110	225	~~200 feet~~100	150	300
Category II	~~50 feet~~75	110	225	~~100 feet~~100	150	300
Category III	~~25 feet~~60	110	225	~~50 feet~~80	150	300
Category IV	~~25 feet~~40	40	40	~~30 feet~~50	50	50

**As determined per ACC 16.10.080(C).*

a. Standard buffer widths as noted in subsection (E)(1) in the Table heading "Without Minimization Measures" of this section may be reduced to the buffer width in the Table heading "With Minimization Measures", if all of the following minimization measures are implemented and as follows:

i. For wetlands that score 6 points or more for habitat function, a relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the Priority Habitat consistent with ACC 16.10.110(D). Presence or absence of a nearby habitat must be confirmed by a qualified biologist

ii. For wetlands that score 3-5 habitat points, on the minimization measures are required.

Disturbance	**Required Measures to Minimize Impacts**
Lights	- Direct lights away from wetland

Noise	- Locate activity that generates noise away from wetland - If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source - For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the activity
Toxic runoff	- Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered - Establish covenants limiting use of pesticides within 150 ft of wetland - Apply integrated pest management
Stormwater Runoff	- Retrofit stormwater detention and treatment for roads and existing adjacent development - Prevent channelized flow from lawns that directly enters the buffer - Use Low Intensity Development techniques
Change in water regime	- Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	- Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion - Place wetland and its buffer in a separate tract or protect with a long term conservation easement
Dust	- Use best management practices to control dust

~~Different buffer width requirements may apply to various portions of a site, without requiring averaging or variances, based on the site plan, the intensity of land uses in various locations, and differences in the category of wetland.~~

~~a~~b. Buffer ~~width~~ averaging to improve wetland protection may be permitted when all of ~~may be allowed where the applicant demonstrates to the director that the wetland contains variations in sensitivity due to existing physical characteristics, that lower intensity land uses would be located adjacent to areas where buffer width is reduced, that width averaging will not adversely impact the wetland functional values and/or that the total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging. Buffer width averaging may be allowed only where such reduction shall not result in greater than a 35 percent reduction in the buffer width established in this section and the applicant demonstrates~~ the following conditions are met:

i. ~~The proposed buffer area is extensively vegetated and has less than 25 percent slopes, and the reduction will not result in adverse impacts to the wetland; or~~ The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.

ii. The ~~project includes a~~ buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional. ~~enhancement plan, as part of the mitigation required by this chapter and has less than 25 percent slopes. The buffer enhancement plan shall use plant species which are native to the project area, and shall substantiate that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetland functional values; or~~

iii. The total area of the buffer after averaging is equal to the area required without averaging ~~acreage included in the buffer would substantially exceed the size of the wetland and the reduction will not~~

~~result in adverse impacts to the wetland and the project includes a buffer enhancement plan which ensures that the reduction will not result in adverse impacts to the wetland.~~.

iv. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever buffer is greater.

~~b. Buffer width may be reduced by up to 35 percent if an applicant undertakes measures approved by the director to enhance or restore the buffer. The restoration or enhancement may include, but is not limited to, planting of native trees or shrubs, increasing the diversity of plant cover types or replacement of exotic species with native species which approximate in composition a naturally occurring plant community.~~

~~c~~b. ~~Application of subsections (E)(1)(a) and (b) of this section shall not result in a buffer width less than 25 feet.~~

~~d~~c. Certain uses and activities which are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted by the director within the buffer depending on the sensitivity of the wetland. Examples of uses and activities with minimal impacts which may be permitted in appropriate cases include permeable pedestrian trails, viewing platforms, and utility easements~~;~~ ~~provided, that any impacts to the buffer resulting from such permitted activities shall be mitigated. Uses permitted within the buffer shall generally be located as far from the wetland as possible~~. ~~Walkways and trails~~ Trails and easements should be limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. Trails ~~They~~ should be limited to pervious surfaces no more than 8 feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

~~e~~d. Where existing buffers are degraded, the director may allow limited filling within the buffer when the applicant demonstrates that the buffer will be enhanced according to standards of this chapter, including appropriate soil preparation, will not result in slopes exceeding 25 percent, and there will be no net loss of wetland or buffer functions and values.

~~f. Long-term protection of a regulated wetland and its associated buffer shall be provided by one of the following methods. It shall be placed in a separate tract on which development is prohibited, protected by execution of an easement dedicated to the city, a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitations associated with the wetland and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King or Pierce County recording department~~.

~~g. The director may require increased buffer widths up to the amount in this column when a larger buffer is deemed necessary to protect wetland functions and values based on site conditions, site design, intensity and operational characteristics of the development/land use. Examples where increased buffers may be required include, but are not limited to, where a larger buffer is necessary to maintain viable populations of species listed as endangered, threatened or sensitive, or when land adjacent to the buffer is susceptible to severe erosion and erosion control measures are inadequate to effectively prevent adverse wetland impacts.~~

2. Stream buffers shall be established as follows:

Stream ~~Class~~Type	**Minimum Buffer Width (in feet)**
~~Class I (see subsection (E)(2)(b) of this section)~~Type S	~~100 feet~~Per SMP

Stream ~~Class~~Type	**Minimum Buffer Width (in feet)**
~~Class II~~ Type F	~~75 feet~~100
~~Class III~~Type Np	~~25 feet~~ 50
~~Class IV~~Type Ns	~~25 feet~~ 50

a. The applicable minimum buffer for ~~Class I~~Type S streams ~~shall be the larger of the buffer established by these regulations or that established by~~is listed in the city's shoreline master program (SMP).

b. The buffer widths required in this section may be increased by the director up to a maximum of 50 percent for ~~Class I, II and IV~~Type F, and Ns streams and up to 100 percent for ~~Class III~~ Type Np streams in response to site-specific conditions and based on the report information submitted to characterize the functions and values of the stream. This includes, but is not limited to, situations where the critical area serves as habitat for threatened, endangered or sensitive species. The applicant may propose to implement one or more enhancement measures, listed in order of preference below, which will be considered in establishing buffer requirements:

i. Removal of fish barriers to restore accessibility to anadromous fish.

ii. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan.

iii. Enhancement of wildlife habitat by adding structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, root wads/stumps, birdhouses, and heron nesting areas.

iv. Additional mitigating measures may include but are not limited to:

(A) Landscaping outside the buffer area with native vegetation or a reduction in the amount of clearing outside the buffer area;

(B) Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value;

(C) Creating a surface channel where a stream was previously culverted or piped;

(D) Removing or modifying existing stream culverts (such as at road crossings) to improve fish passage and flow capabilities which are not detrimental to fish;

(E) Upgrading retention/detention facilities or other drainage facilities beyond required levels; or

(F) Similar measures determined applicable by the director.

c. No structures or improvements shall be permitted within the stream buffer area, including buildings, decks, docks, except as otherwise permitted or required under the city's adopted shoreline master program, or under one of the following circumstances:

i. When the improvements are part of an approved enhancement, restoration or mitigation plan; or

ii. For construction of new public roads and utilities, and accessory structures, when no feasible alternative location exists; or

iii. Construction of foot trails, according to the following criteria:

(A) Designed to minimize impact of permeable materials;

(B) Designed to minimize impact on the stream system;

(C) Of a maximum width of 12 feet;

(D) Located within the outer half of the buffer, i.e., the portion of the buffer that is farther away from the stream; or

iv. Construction of footbridges; or

v. Construction of educational facilities, such as viewing platforms and informational signs.

d. Buffer width averaging may be allowed for ~~Class II~~Type F and ~~Class III~~ Type Np streams only; provided, that all of the following are demonstrated by the applicant:

i. One or more of the enhancement measures identified in subsection (E)(2)(b)(i) through (iv) of this section is implemented;

ii. The total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging;

iii. The buffer width averaging will result in stream functions and values equal or greater than before averaging; and

iv. The buffer width is not reduced by more than ~~35~~ 25 percent in any location than the buffer widths established by this chapter.

e. Stream buffer widths may be reduced by the director on a case-by-case basis by up to ~~35~~ 25 percent if an applicant demonstrates that a reduction will not result in any adverse impact to the stream. Further, if an existing buffer is vegetated, a buffer enhancement plan may be required to demonstrate how the function and values of the buffer and stream will be improved. If the existing buffer has been disturbed and/or is not vegetated, an enhancement plan shall be required that identifies measures to enhance the buffer functions and values and provide additional protection for the stream function and values. Enhancement plans are subject to approval by the ~~planning~~ director.

~~f. Long-term protection of a regulated stream and its associated buffer shall be provided by one of the following methods, except for the portion of Class I streams which are owned by the State Department of Natural Resources. The stream and buffer shall be placed in a separate tract on which development is prohibited, protected by execution of an easement dedicated to the city, a conservation organization, land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitations associated with the stream and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King or Pierce County recording department~~.

3. Wildlife Habitat Areas.

a. Buffer widths for critical habitat areas shall be determined by the director based on consideration of the following factors: species recommendations of the Department of Fish and Wildlife; recommendations contained in the wildlife report and the nature and intensity of land uses and activities occurring on the site and on adjacent sites. Buffers shall not be required for secondary or tertiary habitat.

b. Buffer widths for critical habitat areas may be modified by averaging buffer widths or by enhancing or restoring buffer quality.

c. Certain uses and activities which are consistent with the purpose and function of the buffer for critical habitat areas and do not detract from its integrity may be permitted by the director within the buffer

depending on the sensitivity of the habitat area. Examples of uses and activities with minimal impact which may be permitted in appropriate cases include permeable pedestrian trails and viewing platforms and utility easements; provided, that any impacts to the buffer resulting from permitted facilities shall be mitigated. When permitted, such facilities shall generally be located as far from the critical habitat area as possible.

~~d. Long-term protection of critical habitat areas and their associated buffer(s) shall be provided by one of the following methods. The critical habitat area and buffer(s) shall be placed in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to the city, a conservation organization, land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitations associated with the critical habitat area and its buffer(s) shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King or Pierce County recording department.~~

4. Geologically Hazardous Areas.

a. Required buffer widths for geologically hazardous areas shall reflect the sensitivity of the geologically hazardous area in question and the types and the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the area.

b. Required buffers may vary in width. The widths of the buffer shall reflect the sensitivity of the geologically hazardous area in question and the types and density of uses proposed on or adjacent to the geologic hazard. In determining the appropriate buffer width, the director shall consider the recommendations contained in any geotechnical~~logic hazards~~ report required by these regulations and prepared by a qualified consultant.

c. Buffers may be reduced to a minimum width of 15 feet when the applicant demonstrates through the geotechnical~~logic hazard~~ report that the reduction will adequately protect the geologic hazard and the proposed development through use of proposed engineering techniques. (Ord. 5894 § 1, 2005.)

16.10.100 Alteration or development of critical areas – Standards and criteria – Prohibited Uses.
Alteration of specific critical areas and/or their buffers may be allowed by the director subject to the criteria of this section. Alteration shall implement the mitigation standards as identified in ACC 16.10.110, and the performance standards of ACC 16.10.120 and the monitoring requirements of ACC 16.10.130.

A. Wetlands.

1. Category I Wetlands. Alterations of Category I wetlands shall be avoided subject to the reasonable use provisions of this chapter.

2. Category II Wetlands.

a. Alteration and mitigation shall comply with the mitigation performance standards and requirements of these regulations;

b. Where enhancement, restoration or creation is proposed, replacement ratios shall comply with the requirements of these regulations; and

c. No net loss of wetland functions and values may occur.

3. Category III and IV Wetlands.

a. Alteration and mitigation shall comply with the mitigation performance standards and requirements of these regulations;

b. Where enhancement, restoration or creation is proposed, replacement ratios shall comply with the requirements of these regulations; and

c. No net loss of wetland functions and values may occur.

d. The following wetlands may be exempt from the requirement to avoid impacts and they may be filled if the impacts are fully mitigated based on the remaining actions. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. Mitigation requirements may be determined using the credit/debit tool described in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report* (Ecology Publication #10-06-011, or as revised and approved by Ecology). In order to verify the following conditions, a critical area report for wetlands meeting the requirements in ACC 16.10.060 must be submitted.

i. All non-federally regulated Category IV wetlands less than 4,000 square feet that:

(A) Are not associated with riparian areas or their buffers

(B) Are not associated with shorelines of the state or their associated buffers

(C) Are not part of a wetland mosaic

(D) Do not score 6 or more points for habitat function based on the 2014 update to the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology).

(E) Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in ACC 16.10.080(E).

ii. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

B. Streams.

1. Relocation of a ~~Class I~~Type F, ~~II~~Np and ~~IV~~Ns stream exclusively to facilitate general site design shall not be allowed. Relocation of a stream may take place only when it is part of an approved mitigation or enhancement/restoration plan, and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.

2. Bridges shall be used to cross ~~Class I~~Type S streams; boring/micro-tunneling may be considered for utility crossings if it would result in the same or lower impacts as bridging.

3. Culverts are allowable only under the following circumstances:

a. Only in ~~Class II, III, and IV~~Type F, Type Np, and Type Ns streams;

b. When fish passage will not be impaired;

c. When the following design criteria are met:

i. ~~Oversized~~ All new culverts ~~will~~ shall be ~~installed~~ designed following guidance provided in the Washington Department of Fish and Wildlife's document: Water Crossing Design Guidelines, 2013 (or most recent version thereof). The applicant shall obtain a HPA from the Department of Fish and Wildlife;

ii. Culverts will include gradient controls and creation of pools within the culvert for ~~Class II~~Type F streams;

iii. Gravel substrate will be placed in the bottom of the culvert to a minimum depth of one foot for ~~Class II~~Type F and ~~Class III~~ Type Np streams;

d. The applicant or successors shall, at all times, keep any culvert free of debris and sediment to allow free passage of water and, if applicable, fish. This responsibility shall be part of the required long term preservation measure and may be subject to securing all the necessary approvals for any ongoing maintenance.

4. The city may require that an existing culvert be removed from a stream as a condition of approval, unless the culvert is not detrimental to fish habitat or water quality, or removal would be a long-term detriment to fish or wildlife habitat or water quality.

C. Wildlife Habitat.

1. Critical Habitat. Alterations of critical habitat shall be avoided, subject to the reasonable use provisions of this chapter.

2. Secondary Habitat. Alterations of secondary habitat may be permitted; provided, that the applicant mitigates adverse impacts consistent with the performance standards of ACC 16.10.120, and other requirements of this chapter.

3. Tertiary Habitat. Alterations of tertiary habitat are permitted consistent with applicable provisions of these regulations and provided that no other regulated critical area is present.

D. ~~Ground Water Protection~~ Aquifer Recharge Areas. ~~Requests to establish T~~the following land uses and activities applied for on or after the effective date of the ordinance codified in this chapter, as amended, shall be prohibited in ~~ground water protection zones 1, 2, and 3:~~ Type I aquifer recharge areas:

1. Class V injection wells that inject industrial, municipal, or commercial waste fluids (as defined in WAC 173-218-030);

2. Surface impoundments for treating, storing and disposing of dangerous waste (as defined in WAC 173-303-040 and 173-304-100);

3. Waste piles for treating or storing solid waste (as defined in WAC 173-303-040, 173-303-660 and 173-304-420);

4. Hazardous waste treatment, storage, and disposal (as defined in WAC 173-303-040);

5. All types of solid waste landfills (as defined in WAC 173-304-100);

6. On-site sewage systems (as defined in WAC 246-272A ~~-01001~~) except as related to R-~~R~~C, ~~rural~~ residential conservancy zoned properties~~;~~ and properties located within sole source aquifer (community well sites not classified as groundwater protection areas) 5- and 10-year time of travel areas. On-site sewage systems may be allowed in instances that there are no other means of sewage disposal and the applicant can demonstrate to the King County Health Department, that the system can meet treatment standard N, as provided in WAC chapter 246-272A-0110. Should an on-site sewage system be unable to meet these requirements, the applicant may apply for a critical areas variance in accordance with this chapter.

7. Recycling facilities that accept, store, or use hazardous ~~materials;~~ substances as defined in WAC 173-218-030.

8. Underground storage of hazardous ~~materials~~ substances as defined in WAC 173-218-030, excluding the underground storage of petroleum and other ~~regulated~~ substances as regulated by Chapter 173-360A WAC;

9. Use, storage, treatment, or production of perchlorethylene (PCE) or tetrachloroethylene (PERC), other than in closed-loop systems that do not involve any discharge of ~~PCE~~chemicals;

10. Petroleum refining, reprocessing, and storage, excluding the underground storage of petroleum products and other substances as regulated by Chapter 173-360A WAC;

11. Petroleum-product pipelines not associated with underground storage of petroleum and other regulated substances as regulated by Chapter 173-360 WAC; and

12. Storage or distribution of gasoline treated with the additive methyl tertiary butyl ether (MTBE).

E. Geologically Hazardous Areas.

1. General Standards. The city may approve, condition or deny proposals for the alteration of geologically hazardous areas, as appropriate, based on the degree to which the significant risks posed by critical hazard areas to public and private property and to public health and safety can be mitigated. The objective of mitigation measures shall be to render a site containing a critical geologic hazard as safe as one not containing such hazard or one characterized by a low hazard. In appropriate cases, conditions may include limitations of proposed uses, modification of density, alteration of site layout and other appropriate changes to the proposal. Where potential impacts cannot be effectively mitigated or where the risk to public health, safety and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, the proposal shall be denied.

2. Specific Standards.

a. Class IV Landslide Hazard Areas. Alteration shall be prohibited subject to the reasonable use provisions of this chapter.

b. Critical Seismic Hazard Areas.

i. For one-story and two-story residential structures, the applicant shall conduct an evaluation of site response and liquefaction potential based on the performance of similar structures under similar foundation conditions; or

ii. For all other proposals, the applicant shall conduct an evaluation of site response and liquefaction potential including sufficient subsurface exploration to provide a site coefficient (S) for use in the static lateral force procedure described in the International Building Code.

c. When development is permitted in geologically hazardous areas by these regulations, an applicant and/or its qualified consultant shall provide assurances which, at the city's discretion, may include one or more of the following:

i. A letter from the geotechnical engineer and/or geologist who prepared the geotechnical~~logic hazard~~ report required by these regulations, stating that the risk of damage from the proposal, both on-site and off-site, are minimal subject to the conditions set forth in the report, that the proposal will not increase the risk of occurrence of the potential geologic hazard, and that measures to eliminate or reduce risks have been incorporated into its recommendations;

ii. A letter from the applicant, or the owner of the property if not the applicant, stating its understanding and acceptance of any risk of injury or damage associated with development of the site and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard;

iii. A legally enforceable hold harmless agreement, which shall be recorded as a covenant and noted on the face of the deed or plat, and executed in a form satisfactory to the city, acknowledging that the site is located in a geologically hazardous area; the risks associated with development of such site; and a waiver and release of any and all claims of the owner(s), their directors, employees, or successors, or assigns against the city of Auburn for any loss, damage, or injury, whether direct or indirect, arising out of issuance of development permits for the proposal; and

iv. Posting of a bond, guarantee or other assurance device approved by the city to cover the cost of monitoring, maintenance and any necessary corrective actions.

F. Flood Hazard Areas. Development standards are defined by Chapter 15.68 ACC. (Ord. 5894 § 1, 2005.)

16.10.110 Mitigation standards, location, and timing, ~~criteria~~ wetland replacement ratios, and ~~plan~~ long term protection requirements.

A. Mitigation Standards. Adverse impacts to critical area functions and values shall be mitigated. Mitigation actions shall generally be implemented in the preferred sequence identified in this chapter. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:

1. All feasible and reasonable measures as determined by the department have been taken to reduce impacts and losses to the critical area, or to avoid impacts where avoidance is required by these regulations;

2. The restored, created or enhanced critical area or buffer will be as viable and enduring as the critical area or buffer area it replaces; and

3. No overall net loss will occur in wetland or stream functions and values. The mitigation shall be functionally equivalent to or greater than the altered wetland or stream in terms of hydrological, biological, physical, and chemical functions.

B. Location and Timing of Mitigation.

1. The preferred location of mitigation is on site when ecologically preferable to other identified alternatives. Mitigation may be allowed off site when it is determined by the ~~department~~ Director that on-site mitigation is not ecologically preferable to other identified alternatives, or, in the case of wetlands, where the affected site is identified as appropriate for off-site mitigation in the Mill Creek Special Area Management Plan (SAMP), April 2000. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on site or is consistent with the SAMP. If it is determined that on-site mitigation is not ecologically preferable to other identified alternatives, mitigation shall be provided in the same drainage basin as the permitted activity on property owned, secured, or controlled by the applicant, or provided by the applicant using alternative mitigation options such as mitigation banking or in-lieu fee programs. The mitigation should result in no net loss to the critical area functions impacted and associated watershed. Where mitigation is authorized to be located outside the city limits, the applicant shall assure to the satisfaction of the ~~department~~ director that other requirements of this chapter will be met, including but not limited to, monitoring and maintenance.

2. In-kind mitigation shall be provided except when the applicant demonstrates, and the ~~department~~ director concurs, that greater functional and habitat value can be achieved through out-of-kind mitigation.

3. When wetland, stream or habitat mitigation is permitted by these regulations, the mitigation project shall occur near an adequate water supply (river, stream, ground water) with a hydrologic connection to the critical area to ensure a successful mitigation or restoration. A natural hydrologic connection is preferential as compared to one which relies upon manmade or constructed features requiring routine maintenance.

4. Any mitigation plan shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule that assures completion prior to occupancy has been approved by the department.

C. Wetland Replacement Ratios.

1. Where wetland alterations are permitted by the director, the applicant shall enhance or create areas of wetlands in order to compensate for wetland losses. The compensation shall be determined according to acreage, function, type, location, timing factors and projected success of enhancement or creation.

2. The following acreage replacement and enhancement ratios shall be implemented; however, the department may vary these standards if the applicant can demonstrate and the director agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the director justify the variation. ~~Except as provided for Category IV wetlands in subsection (C)(3) of this section, i~~In no case shall the amount of mitigation be less than the area of affected wetland. The director may at his discretion increase these standards where mitigation is to occur off-site or in other appropriate circumstances.

3. Category IV wetlands can be mitigated by either: (a) meeting one of the replacement ratios ~~(*se~~listed in the following table~~)~~; or (b) filled and ~~implementing~~ mitigated~~ion~~ consistent with 16.10.100(A)(3)(d) ~~which ensures no net loss of values and functions of the larger ecosystem in which the critical area is located~~.

~~Wetland~~ Category and type of Wetland	~~Wetland~~ Creation ~~Ratio (Acres)~~or Re-establishment		Rehabilitation	~~Wetland~~ Enhancement ~~Ratio (Acres)~~
–	~~(Acres Created or Enhanced: Acres Impacted)~~			
Category I: Bog, Natural Heritage Site	~~6:1~~ Not considered possible		Case by case	~~12:1~~Case by case
Category I: Mature Forested	6:1		12:1	24:1
Category I: Based on functions	4:1		8:1	16:1
Category II	~~Forested~~ 3:1		6:1	612:1
–	~~Scrub/Shrub~~	~~2:1~~	~~4:1~~	
–	~~Emergent~~	~~2:1~~	~~4:1~~	
Category III	~~Forested~~ 23:1		4:1	68:1
–	~~Scrub/Shrub~~	~~2:1~~	~~4:1~~	
–	~~Emergent~~	~~2:1~~	~~4:1~~	
Category IV~~*~~	1.25:1~~*~~		3:1	2.56:1~~*~~

D. Long-term protection of regulated wetlands, streams, wildlife habitat areas, geologically hazardous areas, aquifer recharge areas, and any associated buffer(s) shall be provided by one of the following methods:

1. ~~It~~ For subdivisions, short subdivisions, and binding site plans, the critical area and its buffer shall be ~~place~~rotected long-term by one of the following measures in the following order of preference:

a. The critical area and its buffer shall be placed in a separate tract on which development is prohibited and a note shown on the face of the plat indicating that the homeowners or homeowners' association is responsible for maintenance of the tract. If the City agrees to accept dedication of the tract, a City-approved note shall be shown on the face of the plat indicating that the City is responsible for long term ownership and maintenance of the tract and there shall be adequate provisions for City access to the tract from a public street, as approved by the director.

b. The critical area and its buffer shall be protected by execution of an easement dedicated to the city, a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. Access to the easement must be assured from the public street.

2. For all other developments. The critical area and its buffer shall be protected by execution of an easement dedicated to the city, a conservation organization, or land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The legal description, depicted location, and limitations associated with the critical area and its buffer, and access from the public street shall be shownincluded within on the easement document. face of the deed or plat applicable to the property and The easement provisions shall be reviewed and acceptable to the City prior to recordeding with the King County Recorder or Pierce County recording departmentAuditor. Any area in which Department of Natural Resources has jurisdiction, ownership such as Type S streams, will not be subject to this requirement.

(Ord. 6476 § 1, 2013; Ord. 5894 § 1, 2005.)

16.10.120 Performance standards for mitigation planning.

The performance standards in this section shall be incorporated into mitigation plans submitted to the city for impacts to critical areas.

A. Wetlands and Streams.

1. Use plants native to the Puget Lowlands or Pacific Northwest ecoregion; non-native, introduced plants or plants listed by the Washington State Department of Agriculture as noxious weeds (Chapter 16-750 WAC) shall not be used;

2. Use plants adapted to and appropriate for the proposed habitats and consider the ecological conditions known or expected to be present on the site. For example, plants assigned a facultative wetland (FACW) wetland indicator status should be used for sites with soils that are inundated or saturated for long periods during the growing season. Use nearby reference wetlands or aerial photos to identify plants suitable to the site conditions and hydrologic regimes planned for the mitigation site. Avoid planting significant areas of the site with species that have questionable potential for successful establishment, such as species with a narrow range of habitat tolerances;

3. Utilize plant species' heterogeneity and structural diversity that emulates native plant communities described in "Natural Vegetation of Oregon and Washington" (Franklin, J.F. and C.T. Dyrness, 1988) or other regionally recognized publications on native landscapes;

4. Specify plants that are commercially available from native-plant nurseries or available from local sources. If collecting some or all native plants from donor sites, collect in accordance with ecologically accepted methods, such as those described in the "Washington Native Plant Society's Policy on Collection and Sale of Native Plants," that do not jeopardize the survival or integrity of donor plant populations;

5. Use perennial plants in preference to annual species; the use of annuals species should be limited to a temporary basis in order to provide erosion control, support the establishment of perennial plants, or if mitigation monitoring determines that native plants are not naturally colonizing the site or if species diversity is unacceptably low compared to approved performance standards;

6. Use plant species high in food and cover value for native fish and wildlife species that are known or likely to use the mitigation site (according to reference wetlands, published information, and professional judgment);

7. Install a temporary irrigation system and specify an irrigation schedule and responsible party to maintain unless a sufficient naturally-occurring source of water is demonstrated. Temporary irrigation facilities shall be removed after the time specified by the qualified consultant;

8. Identify methods of soil preparation. For stream substrate or wetland soils, at least one foot of clean inorganic and/or organic materials, such as cobble, gravel, sand, silt, clay, muck, soil, or peat, as appropriate, shall be ensured. The stream substrate or wetland soils shall be free from solid, dangerous, or hazardous substance as defined by Chapter 70.105 RCW and implementing rules;

9. Confine temporary stockpiling of soils to upland areas. Identify construction access routes and measures to avoid resultant soil compaction. Unless otherwise approved by the director, comply with all applicable best management practices for clearing, grading, and erosion control to protect any nearby surface waters from sediment and turbidity;

10. Show densities and placement of plants; these should be based on the ecological tolerances of species proposed for planting, as determined by a qualified consultant;

11. Provide sufficient specifications and instructions to ensure proper placement and spacing of seeds, tubers, bulbs, rhizomes, springs, plugs and transplanted stock, and other habitat features, and to provide a high probability of success, and to reduce the likelihood of prolonged losses of wetland functions from proposed development;

12. Do not rely on fertilizers and herbicides to promote establishment of plantings; if fertilizers are used, they must be applied per manufacturer specifications to planting holes in organic or controlled release forms, and never broadcast on the ground surface; if herbicides are used to control invasive species or noxious weeds and to help achieve performance standards, only those approved for use in aquatic ecosystems by the Washington Department of Ecology shall be used; herbicides shall only be used in conformance with all applicable laws and regulations and be applied per manufacturer specifications by an applicator licensed in the state of Washington; and

13. Include the applicant's mitigation plan consultant in the construction process to ensure the approved mitigation plan is completed as designed. At a minimum, the consultant's participation will include site visits to inspect completed rough and final grading, installation of in-water or other habitat structures, and to verify the quality and quantity of native plant materials before and after installation;

14. Signs and Fencing of Wetlands and Streams Critical Areas.

a. Temporary Markers. The outer perimeter of the critical area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the department prior to the commencement of authorized activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the department may require the applicant to install permanent signs along the boundary of a critical area or buffer. Permanent signs shall be made of metal face and attached to a metal post, firmed anchored, or other materials of equal durability approved by the director. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

"~~Habitat Conservation Area~~Sensitive Area Boundary"

"~~Do Not Disturb~~Help protect and care for this area. Trampling or cutting vegetation, placing fill or garbage, and any other activities that may disturb the sensitive area are prohibited, as regulated under Auburn City Code Chapter 16.10.

Please contact City of Auburn at 253-931-3090 with questions or concerns."

~~Contact the City of Auburn Planning Department regarding uses and restrictions~~

c. Fencing.

i. The director shall condition any permit or authorization issued pursuant to this chapter to require the application to install a permanent fence at the edge of the critical area or buffer, when fencing will prevent future impacts on the critical area.

ii. The applicant shall be required to install a permanent fence around the critical area or buffer when domestic grazing animals are present or may be introduced on-site.

iii. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

iv. Fencing shall include a permanent natural wood split-rail fence, such as cedar or other non-pressure treated wood with fence posts be set in concrete footings, or similar, as approved by the director.

B. Wetlands. Do not exceed a maximum water depth of 6.6 feet (two meters) at mean low water unless approved as part of a planned interspersion of wetland vegetation classes and deep-water habitats.

1. Do not exceed a slope of 25 percent (4H:1V) in the wetland unless it can be clearly demonstrated by supporting documentation that wetland hydrology and hydric soils capable of supporting hydrophytic (wetland) vegetation will be created on steeper slopes;

2. Do not exceed a slope of 25 percent (4H:1V) in the wetland buffer; and

3. Limit deep-water habitat (greater than 6.6 feet at mean low water) in compensatory wetland to no more than 60 percent of the total area, and approach this limit only when deep-water habitat is highly interspersed with wetland vegetation classes, including aquatic bed, emergent, scrub-shrub, and forested.

C. Wildlife Habitat Conservation Areas.

1. Incorporate relevant performance standards from subsections A and B of this section, as determined by the director;

2. Include the following additional mitigation measures in mitigation planning:

a. Locate buildings and structures in a manner that minimizes adverse impacts on critical habitats used by threatened or endangered species and identified by the Washington State Department of Fish and Wildlife, NOAA Fisheries, and U.S. Fish and Wildlife Service;

b. Integrate retained habitat into open space and landscaping;

c. Wherever possible, consolidate critical habitats into larger, unfragmented, contiguous blocks;

d. Use native plant species for landscaping of disturbed or undeveloped areas and in any habitat enhancement or restoration activities;

e. Create habitat heterogeneity and structural diversity that emulates native plant communities described in Natural Vegetation of Oregon and Washington (Franklin, J.F. and C.T. Dyrness, 1988) or other regionally recognized publications on native landscapes;

f. Remove and/or control any noxious weeds or exotic animals which are problematic to the critical habitat area as determined by the director or consultant hired by the city to review the mitigation plan; and

g. Preserve significant or existing native trees, preferably in stands or groups, consistent with achieving the goals and standards of this chapter; the plan shall reflect the report prepared pursuant to ACC 16.10.070.

D. Geologically Hazardous Areas.

1. Incorporate relevant performance standards from the preceding subsections, as determined by the director;

2. The following additional performance standards shall be reflected in proposals within geologically hazardous areas:

a. A geotechnical ~~logic hazard~~ report shall be prepared to identify and evaluate potential hazards and to formulate mitigation measures;

b. Construction methods will not adversely affect geologic hazards or will reduce adverse impacts on geologic hazards;

c. Site planning shall minimize disruption of existing topography and natural vegetation;

d. Impervious surface coverage shall be minimized;

e. Disturbed areas shall be replanted with permanent vegetation as soon as feasible pursuant to a mitigation or landscape plan;

f. Clearing and grading shall be limited to between April 1st and October 31st unless the geotechnical~~logic hazard~~ report specifically addresses measures necessary to perform clearing and grading during other portions of the year;

g. The limited use of retaining walls that minimize disturbance or alteration of existing natural slope areas are preferred over graded slopes;

h. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;

i. A drainage plan shall be prepared for large projects as required by the city engineer;

j. Development shall not increase instability or create a hazard to the site or adjacent properties, or result in a significant increase in sedimentation or erosion.

E. ~~Ground Water Protection~~ Aquifer Recharge Areas. ~~A mitigation plan is~~ Protective measures are required of all development except an individual single-family or two-family (duplex) dwelling unit. ~~The mitigation plans~~ Development applications shall include the following minimum measures and incorporate the appropriate responses.

1. ~~Ground Water Protection Zones 1, 2 and 3~~Type I Aquifer Recharge Areas.

a. Indicate how hazardous ~~materials~~ substances shall be stored and used such that any unauthorized release or discharge of the hazardous ~~materials~~ substances is prevented.

b. Specify that pesticides, herbicides, and fertilizers shall be applied in strict conformance with manufacturer's instructions and by persons licensed to perform such applications, if applicable.

c. Document hazardous ~~materials~~ substances management procedures, including, but not limited to, operations plans, drawings and as-built diagrams, emergency response and spill cleanup plans, and employee training documentation. This information can be provided in the form of copies of permits or other documentation required by other authorities.

d. Indicate that any fill material shall be documented to be free of contaminants that exceed Method A and Method B soil cleanup standards specified in Chapter 173-340 WAC prior to placement on the ground, if applicable.

e. Specify that any contaminant release reported to the Washington State Department of Ecology (Ecology) per Chapter 173-340 WAC shall also be reported to the city of Auburn public works department concurrent with notification of Ecology.

f. Include a provision that the implementation of the ~~mitigation plan~~ protective measures will be ~~kept up-to-date~~ maintained during the life of the project. Updates shall occur whenever there is a change in use or business occupancy or when there are significant changes in facility operations or hazardous ~~materials~~ substances management. A copy of the plan is to be available for review by city inspectors at the business

or businesses within the development. The plan should cover the facility site in general as well as have a section(s) specific to any tenants within the development.

2. ~~Ground Water Protection Zone 4~~Type II Aquifer Recharge Areas. ~~Business~~ Property owners shall implement best management practices for water resource protection. (Ord. 5894 § 1, 2005.)

16.10.130 Monitoring program and contingency plan.

A. For all actions requiring a mitigation plan, a monitoring program shall be prepared and implemented by the applicant to evaluate the success of the mitigation project and to determine necessary corrective actions. This program shall determine if the original goals and objectives are being met. The monitoring program shall be reviewed and approved by the city prior to implementation. The monitoring program shall include a contingency plan in the event that implementation of the mitigation plan is inadequate or fails.

B. A performance and maintenance security is required to ensure the applicant's compliance with the terms of the approved mitigation plan. The amount of the performance security shall equal 125 percent of the cost of the mitigation project for the length of the monitoring period; the director may agree to reduce the security in proportion to work successfully completed over the period of the security.

C. Incorporate the following into monitoring programs prepared to comply with this chapter:

1. Appropriate, accepted, and unbiased qualitative or precise and accurate quantitative sampling methods to evaluate the success or failure of the project compared to performance standards approved by the city;

2. Quantitative sampling methods that include permanent photo points installed at the completion of construction and maintained throughout the monitoring period and shall also include permanent transects, sampling points (e.g., quadrants or water quality or quantity monitoring stations), and wildlife monitoring stations;

3. Clearly stipulated qualitative and quantitative sampling methods that are approved by the city before implementation by the project proponent;

4. Appropriate qualitative and/or quantitative performance standards that will be used to measure the success or failure of the mitigation. For wetlands, streams and habitat areas these will include, at a minimum, standards for plant survival and diversity, including structural diversity, the extent of wetland hydrology, hydric soils, and habitat types and requirements as appropriate; all proposed standards are subject to review and approval by the city or the consultant selected by the city to review the mitigation monitoring plan. The qualitative and/or quantitative performance standards shall generally address the following subject areas:

a. Requirements for survival of plantings;

b. Requirements for plant density or percent cover by plants;

c .Requirements for plant diversity (species composition diversity, structural diversity – tree, shrub, and groundcover layers, deciduous and evergreen, etc.);

d, Requirements that are staged over time so that different performance standards must be met as the mitigation area matures;

e. Measures to verify that the type and amount of functional areas that are part of the mitigation plan are successfully established (e.g. identify steps that will be implemented to confirm that the amount and type of created wetland meets the criteria of a wetland);

f. Requirements specifically limiting occurrence of exotic and nuisance plant species'

g. Requirements for ongoing preservation and protection measures such as continued existence in good condition of fencing and critical area signage. Also, avoidance of disturbance, trampling and the accumulation of litter or debris within the critical area ~~wetland~~ and its buffer.

5. Monitoring programs for a minimum period of ~~three~~ five years for buffer enhancement and ~~a minimum of five years for~~ other types of mitigation programs that include, at a minimum, preparation of an as-built plan; biannual monitoring and preparation of annual monitoring reports following implementation; and a maintenance plan. More stringent monitoring requirements or longer monitoring periods may be required on a case-by-case basis for more complex mitigation plans (e.g. ten years or more when forested or scrub-shrub wetlands are the intended result);

6. Monitoring reports shall be submitted to the director by December 1st of the year in which monitoring is conducted. The reports are to be prepared by a qualified consultant and must contain all qualitative and quantitative monitoring data, photographs, and an evaluation of each of the applicable performance standards. If performance standards are not being met, appropriate corrective or contingency measures must be identified and communicated to the director and upon concurrence, implemented to ensure that performance standards will be met;

7. Provision for the extension of the monitoring period beyond the minimum timeframe if performance standards are not being met at the end of the initial five-year period; and provision for additional financial securities or bonding to ensure that any additional monitoring and contingencies are completed to ensure the success of the mitigation. (Ord. 5894 § 1, 2005.)

16.10.140 Procedural provisions.

A. Interpretation and Conflicts. The director shall have the authority to administer the provisions of this chapter, to make determinations with regard to the applicability of the regulations, to interpret the intent of unclear provisions, to require additional information, to determine the level of detail and appropriate methodologies for critical area reports and studies, to prepare application forms and informational materials as required, and to promulgate procedures and rules for unique circumstances not anticipated within standards and procedures contained in this section. Administrative interpretations may be appealed to the hearing examiner as prescribed in ACC 18.70.050.

B. Penalties and Enforcement. Compliance with these regulations and penalties for their violation shall be enforced pursuant to the procedures set forth in Chapter 1.25 ACC.

C. Appeals of~~from~~ Critical Area Review Decisions. Appeals of critical area review decisions shall be governed by the procedures set forth in ACC 18.70.050. (Ord. 5894 § 1, 2005.)

16.10.150 Reasonable use provision.

A. The standards and requirements of these regulations are not intended, and shall not be construed or applied in a manner, to deny all reasonable use of private property. If an applicant demonstrates to the satisfaction of the hearing examiner that strict application of these standards would deny all reasonable economic use of a property, development may be permitted subject to appropriate conditions.

B. Applications for a reasonable use exception shall be processed as a Type III decision, pursuant to ACC 14.03.030 and Chapter 2.46 ACC.

C. An applicant for relief from strict application of these standards shall demonstrate that all of the following criteria are met:

1. No reasonable use with less impact on the critical area and its buffer is possible.

There is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors, that would allow a reasonable and economically viable use with fewer adverse impacts;

2. The proposed activities, as conditioned, will result in the minimum possible impacts to affected critical areas;

3. All reasonable mitigation measures have been implemented or assured;

4. The inability to derive reasonable use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition; and

5. The applicant shall demonstrate that the use would not cause a hazard to life, health or property.

D. Any alteration of a critical area approved under this section shall be subject to appropriate conditions and will require mitigation construction authorized by ~~under~~ an approved mitigation plan.

E. The burden of proof shall be on the applicant to provide evidence in support of the application and to provide sufficient information on which any decision has to be made.

~~E~~F. Approval of a reasonable use exception shall not eliminate the need for any other permit or approval otherwise required for a proposal by applicable city codes.

~~F~~G. Except when application of this title would deny all reasonable use of a site, an applicant who seeks an exception from the regulations of the title shall pursue a variance as provided in ACC 16.10.160. (Ord. 6442 § 13, 2012; Ord. 5894 § 1, 2005.)

16.10.160 Variances.
Applications for variances to the strict application of the terms of this chapter to a property may be submitted to the city. Minor variances, defined as up to and including 10 percent of the requirement, may be granted by the director as a Type II decision as defined by Chapter 14.03 ACC. Variance requests which exceed 10 percent may be granted by the hearing examiner as a Type III decision, pursuant to ACC 14.03.030 and Chapter 2.46 ACC. Approval of variances from the strict application of the critical area requirements shall conform to the following criteria:

A. There are unique physical conditions peculiar and inherent to the affected property which make it difficult or infeasible to strictly comply with the provisions of this section;

B. The variance is the minimum necessary to accommodate the building footprint and access;

C. The proposed variance would preserve the functions and values of the critical area, and/or the proposal does not create or increase a risk to the public health, safety and general welfare, or to public or private property;

D. The proposed variance would not adversely affect surrounding properties adjoining;

E. Adverse impacts to critical areas resulting from the proposal are minimized; and

F. The special circumstances or conditions affecting the property are not a result of the actions of the applicant or previous owner. (Ord. 6442 § 14, 2012; Ord. 5894 § 1, 2005.)

16.10.170 Special exception for public agencies and utilities.
A. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

B. Exception Request and Review Process. An application for a public agency and utility exception shall be made to the city and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC). The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection D of this section.

C. Hearing Examiner Review. The hearing examiner shall review the application and director's recommendation, and conduct a public hearing pursuant to the provisions of Chapter 2.46 ACC. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in subsection D of this section.

D. Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions follow:

1. There is no other practical alternative to the proposed development with less impact on critical areas;

2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

4. ~~The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with other applicable regulations and standards.~~ The proposal protects critical area functions and values to the extent feasible and provides for mitigation in accordance with the provisions of this chapter; and

5. The proposal is consistent with other applicable regulations and standards.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 6442 § 15, 2012; Ord. 5894 § 1, 2005.)

16.10.180 Severability.

If any provision of these regulations or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of these regulations or the application to other persons or circumstances shall not be affected. (Ord. 5894 § 1, 2005.)

AGENDA BILL APPROVAL FORM

Agenda Subject:
Ordinance No 6747 (Faber)

Date:
October 30, 2019

Department:
City Council

Attachments:
Ordinance 6747

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Approve Ordinance No. 6747 authorizing the amendment of Chapter 2.22 of the Auburn City Code related to tobacco use in public parks.

Background Summary:

It is clear from the King County Public Health Statistics that a disproportionate number of Auburn residents are at a high health risk compared to the rest of the County. Realizing such, the City of Auburn launched the Healthy Auburn 2020 "Blue Ribbon Committee". It is understood that smoking and vaping in parks may still occur should an ordinance be approved as this infraction would fall low on the list of police priorities but if the health and experience of any park visitors is positively affected, then we've create a better public space.

Auburn City Council discussed the proposed Smoking and Vaping ban in City Parks at the October 14 Study Session. As an outcome of that discussion the penalty for violation is proposed as a Class 3 Civil Infraction fine of $50. This ordinance allows for a 6 month education period, prior to implementation in an effort to inform the public, produce signage alter internal and external forms.

Ordinance 6747 was discussed in the Auburn City Council Study Session on October 14. The Healthy Auburn Blue Ribbon Committee as well as the Auburn Parks and Recreation Board are committed to creating a healthy community. In 2009 the Tobacco-Free Park Policy was initiated to assist recreational organizations and parents in their efforts to recreate in a tobacco-free environment. In July of 2019, staff was requested to develop information related to a potential ban on smoking and vaping in City Parks. This initiative is supported by both the Parks Board and the Blue Ribbon Committee who recognize that the negative effects of first and second hand smoke and discourage tobacco usage at places where youth are gathered and healthy lifestyle activities are available.

Reviewed by Council Committees:

Municipal Services

Councilmember: Brown **Staff:** Faber

Meeting Date: November 4, 2019 Item Number: ORD.B

ORDINANCE NO. 6747

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO TOBACCO USE IN PUBLIC PARKS, AND AMENDING CHAPTER 2.22 OF THE AUBURN CITY CODE

WHEREAS, one of the primary purposes and functions of public parks is to provide safe, welcoming places for all to enjoy and pursue physical activity, healthy lifestyles, and leisure experiences through nature. Through these purposes Auburn parks contribute to a healthier Auburn community; and

WHEREAS, the City of Auburn finds that smoking or the use of other tobacco products in public parks is contrary to the fundamental purposes for operating public parks; and

WHEREAS, while the Auburn Parks Department will continue its existing education program, which encourages no smoking or the use of tobacco products on or near any city athletic fields, picnic shelters and playgrounds, the program does not apply generally to all park property and does not have a parallel enforceable component; and

WHEREAS, several other King County cities have declared their parks smoke and tobacco free, including the cities of Kent, Burien, SeaTac, Tukwila, and Seattle; and

WHEREAS, the Auburn Parks and Recreation Board recommended that the City parks and facilities be smoke and tobacco free; and

WHEREAS, it is in the public interest to adopt a smoke and tobacco use prohibition for all park property and park facilities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. **Amending City Code Section.** Chapter 2.22. of the Auburn City Code is amended to read as shown in Exhibit A.

Section 2. **Implementation.** The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. **Severability.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. **Effective date.** Subsection 2.22.085(B) in Exhibit A shall take effect and be in force one hundred-eighty days after passage and publication of this Ordinance. All remaining sections and subsections of this Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

Published: _____

EXHIBIT A

2.22.030 Definitions.
The terms herein used, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

A. "Civil infraction" has the meaning given that term by Chapter 7.80 RCW, the Infraction Rules for Courts of Limited Jurisdiction and any local rule adopted thereto by the King County district court at Auburn.

B. "Director" means the director of the parks and recreation department.

C. "Hearing examiner" means the city's hearing examiner as set forth in Chapter 2.46 ACC.

D. "Park" means and includes all parks, squares, public gardens, community centers, museums, golf courses, playgrounds, fields, and recreation areas, either developed or undeveloped, owned or under the management and control of the city of Auburn, and all trails, drives, roads, parkways, facilities, bodies of water, docks, piers, beaches, and parking lots and garages contained therein.

E. "Vehicle" shall have the meaning set forth in RCW 46.04.670 as currently enacted or hereafter amended and shall also include (1) trailers, including trailers designed to be towed behind any vehicle, and (2) motorized scooters and electric personal assistive mobility devices, as defined in Chapter 10.54 ACC.

Wherever consistent with the context of this chapter, words in the present, past, or future tenses shall be construed to be interchangeable with each other, and words in the singular number shall be construed to include the plural. (Ord. 6465 § 1, 2013.)

2.22.050 Permits – Generally.
A. Permits, when required by this chapter, shall be applied for through the director unless otherwise provided. The granting or denying of permits shall be based upon the policies and standards set forth in this chapter. Where fees are required by the city for the issuance of permits, payment of such fees will be required before permits are issued. No fee shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution, or Article I, Section 3, 4, 5, or 11 of the Washington Constitution other than a fee based on the cost of processing the application. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event;

the use or application of any funds raised; if part of an annual tradition or a series, previous events in the sequence; and the public perception of the event.

B. All permits issued by the city shall be subject to other applicable city ordinances and park regulations. The persons to whom such permits are issued ("permittees") shall be bound by said rules, regulations, and ordinances as fully as though the same were contained in such permits. A permittee shall be liable for any loss, damage, or injury sustained by any person by reason of the negligence of the permittee, as well as for any breach of such rules, regulations, or ordinances, to the person or persons so suffering damages or injury.

C. Permits issued for musical acts or bands shall specify that the noise/sound level emitting from such act or band shall be no greater than 90 decibels at or beyond 50 feet.

Any person claiming to have a permit from the city must produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same.

D. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.070 Destruction of park property.
It is unlawful for any person to damage or destroy any real or personal property within a park. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.080 Intoxicating liquors.
The display, possession, or consumption of intoxicating liquors in any park is prohibited, except in particular areas or facilities which may be expressly designated from time to time by the director. Whenever any person is stopped for a violation of this section, the officer may detain that person for a reasonable period of time necessary to identify the person and check for outstanding warrants. (Ord. 6465 § 1, 2013.) Violation of this section constitutes a class 2 civil infraction pursuant to 7.80 RCW.

2.22.085 Smoking, vaping and tobacco use.
A. In or on any park that is not a golf course, it is unlawful for any person to use tobacco products, to smoke, to vape, or to hold a smoking or vaping product that is lit or producing smoke. This prohibition includes both non-combustible products, like e-cigarettes or other vaping devices that produce smoke or vapor, and dipping tobacco, chewing tobacco, snuff, or snus; and combustible products, like paper cigarettes, cigarillos, and cigars, pipes, and hookahs. If the product emits smoke, or vapor, or contains tobacco, it is prohibited.

B. Violation of this section constitutes a class 3 civil infraction pursuant to 7.80 RCW.

2.22.090 Selling, advertising, soliciting.

A. No person, except duly authorized concessionaires, and those having a specific permit, shall sell or offer for sale in any park any goods, refreshments, photographs, or other articles.

B. Advertising by the distribution, carrying, erection, attachment, or use of a handbill, sign, or device of any kind in any park is prohibited. It is unlawful to place or erect a structure of any kind in any park. It shall be unlawful to carry on any activity whatsoever for compensation or remuneration except upon express authorization of the director, including, but not limited to, the sale of goods, wares, merchandise, and services.

C. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.100 Damage or removal of plants prohibited.

Unauthorized cutting, removal, or destruction of any turf, tree, plant, shrub, flower, or seaweed on park property is prohibited. While inside any park, having in one's possession any newly plucked branch, tree, flower, plant, fungus (mushrooms, shelf fungus, etc.), algae or shrub without specific permission by the director shall be presumptive evidence of such cutting, removal, or destruction. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW._ (Ord. 6465 § 1, 2013.)

2.22.120 Animal control.

A. Unless in a designated off-leash area, dogs and cats must be on a leash no longer than eight feet or secured inside a vehicle.

B. Animals are not allowed to enter wading pools, ponds, lakes, fountains, spraygrounds, or any play area designed to utilize water in any park unless in a designated off-leash area.

C. Any person with an animal in his or her possession shall be responsible for the conduct of the animal.

D. The provisions of this section do not apply to animals owned or maintained by the city of Auburn.

E. The director may prohibit animals, except for service animals as defined in RCW 9.91.170, from events and/or facilities within a park.

F. All provisions of ACC Title 6 remain in full force and effect in all parks and may be enforced by any police officer or animal control officer.

G. Any violation of this section is a Class 1 civil infraction pursuant to 7.80 RCW. unless a different penalty is provided in ACC Title 6. (Ord. 6465 § 1, 2013.)

2.22.130 Molesting or feeding animals.
No person shall molest or attempt to touch any bird or wild animal in a park. It shall be unlawful for any person to give, offer, or attempt to give to any wild animal within the parks any tobacco, drink, or other article known to be dangerous or noxious to animals. It is also unlawful to feed any wild bird or animal in a park. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW.__ (Ord. 6465 § 1, 2013.)

2.22.150 Prohibitions as to boating, fishing, and swimming.
It is unlawful for any person to boat, fish, wade, swim, scuba dive, snorkel, or bathe in any park except in the places and at times designated by the director. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW._(Ord. 6465 § 1, 2013.)

2.22.160 Boats and beaches.
No dock or any other structure shall be built upon any beach unless expressly authorized. No boat shall be kept for hire or private use upon any waters under the jurisdiction of the city of Auburn, except as expressly authorized by the director. Launching of waterborne craft from any shoreline is prohibited, except for specifically designated areas or with specific permit issued by the director. The launching of waterborne craft, as provided in this section, shall be unlawful if the required fee, as determined by the director, has not been paid. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW._(Ord. 6465 § 1, 2013.)

2.22.170 Fires.
A. Fires are prohibited except in picnic stoves or fire pits installed under the authority of the director or in portable barbeques. Fires in any other facility or area are allowed only by special permit. Fires in picnic stoves or portable barbeques may only utilize propane or charcoal briquettes as fuel; all other fuel sources, including wood, are specifically prohibited. Portable barbeques may be utilized only for cooking food. Briquettes must be completely extinguished and properly disposed of or removed from the park. The director may further restrict the use of barbeques within any park, provided that signs are installed to notify patrons of the restrictions.

B. Fires are prohibited during announced burn bans.

C. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.180 Use of certain equipment.
A. It is unlawful for any person to use a slingshot, beanshooter, paintball gun, air gun, or other similar implement, or golf or archery equipment in or upon any park; provided, that such equipment may be used in areas especially designated or provided for that use, or by specific permit.

B. It is unlawful to conduct organized golf, baseball, tennis, soccer, or other games of like character, or to hurl or propel any missile into or over any park, except at places set apart for such purposes.

C. It is unlawful to use motorized model aircraft or watercraft in any park, except as specifically permitted.

D. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.190 Fireworks.

It is unlawful to carry, shoot, fire, or explode any fireworks or explosives of any kind in any park. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW._ (Ord. 6465 § 1, 2013.)

2.22.200 Vehicular standards.

It is unlawful:

A. To enter or leave a park by other than established entrances and exits.

B. To operate a vehicle or a bicycle in any park, except on roads intended for the movement of public vehicular traffic, or on roads and trails specifically designated for special use.

C. To park vehicles in any park except in established parking areas.

D. To park in any park when the park is closed. Any vehicle that is parked in violation of this subsection may be immediately impounded.

E. To service, wash, wax, or change the oil of any vehicle within a park.

F. To engage in, conduct, or hold any trials or competitions for speed, endurance, or hillclimbing involving any vehicle, boat, or aircraft in any park without specific permit.

G. To fail to obey the posted speed limits and all other regulatory signs.

H. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW. (Ord. 6465 § 1, 2013.)

2.22.205 Entrance fees.

Where fees are required by the director for entering any park, it is unlawful to enter without paying the prescribed fee. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW._(Ord. 6465 § 1, 2013.)

2.22.210 Overnight use.
It is unlawful to camp or set tents or other shelters overnight in any park, unless authorized by the director. Violation of this section constitutes a class 1 civil infraction pursuant to 7.80 RCW._(Ord. 6465 § 1, 2013.)

2.22.220 Opening and closing hours.
A. Unless otherwise posted, parks shall open one-half hour before sunrise and close one-half hour after sunset. Any person entering or remaining in a park when it is closed is subject to arrest and prosecution for criminal trespass or a class 1 civil infraction pursuant to Chapter 7.80 RCW.

B. The director may extend open hours for sanctioned events, but only that portion of a park being used for the event will be open beyond normal hours; other areas of such a park shall remain closed.

C. This section shall not apply to:
1. Police officers or park employees while on-duty.
2. Sidewalks that are within the right-of-way of a public street, when the street is not within the boundaries of a park. (Ord. 6465 § 1, 2013.)

2.22.250 Penalty for violations.
Violations of this chapter shall be penalized as provided in each section unless a penalty is specifically designated elsewhere in the Auburn City Code as a gross misdemeanor or misdemeanor, or if specified to be enforced pursuant to other law, including, but not limited to, another section, chapter, or title of the Auburn City Code. Each penalty is in addition to any other remedies or penalties provided by law. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense. Whenever any person is stopped for a violation of this chapter, the officer may detain that person for a reasonable period of time necessary to identify the person and check for outstanding warrants. (Ord. 6465 § 1, 2013.)

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5462 (Gaub/Thomas)

Date:
October 22, 2019

Department:
Public Works

Attachments:
Resolution No. 5462

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

City Council adopt Resolution No. 5462

Background Summary:

Resolution No. 5462 establishes a hearing date for the City Council to consider Ordinance 6739 authorizing the City to assume the rights, powers, functions, and obligations of the Auburn Transportation Benefit District (TBD).

The City created the Auburn TBD on September 12, 2011. In 2015, the legislature changed the law to allow that a City with the same boundaries as the TBD may assume the rights, powers, functions, and obligations of that TBD. In order to consider this assumption, the City Council must conduct a public hearing.

At this time, the Auburn TBD has enacted no funding revenue options and has not collected or spent any funds, it does not have any contracts, it has not committed to any projects, and does not have any assets.

By taking advantage of the 2015 legislative change, the City's financial reporting obligations would be streamlined. Total debt capacity for the TBD would be limited to the City's debt capacity, but neither the City nor the TBD has the funding capacity to leverage the full debt capacity allowed by law.

Reviewed by Council Committees:

Councilmember:

Staff: Gaub/Thomas

Meeting Date: November 4, 2019

Item Number: RES.A

RESOLUTION NO. 5462

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, ESTABLISHING A HEARING DATE TO CONSIDER AN ORDINANCE AUTHORIZING THE CITY TO ASSUME THE RIGHTS, POWERS, FUNCTIONS, AND OBLIGATIONS OF THE AUBURN TRANSPORTATION BENEFIT DISTRICT

WHEREAS, on September 12, 2011, the City enacted Ordinance 6377, creating the Auburn Transportation Benefit District ("District"), with the City Council and Mayor sitting *ex-officio* as the Board of the District; and,

WHEREAS, Chapter 36.74 of the Revised Code of Washington authorizes a city to assume the rights, powers, functions, and obligations of the District; and,

WHEREAS, in order to assume the District's powers and obligations the City must conduct a public hearing, notice of which must be public at least two times during the two weeks preceding the schedule hearing date.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RESOLVES as follows:

Section 1. The City Council will hold a public hearing on November 18, 2019, at 7:00 p.m. or as soon after as practical, in the City Council Chambers at 25 W. Main St., Auburn, Washington, to consider and take public testimony on a proposed ordinance to authorize the City to assume the rights, powers, functions, and obligations of the District.

Section 2. The City Clerk is authorized and directed to publish notice of the meeting.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed this _____ day of _____, 2019.

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5467 (Faber)

Date:
October 30, 2019

Department:
Parks/Art and Recreation

Attachments:
Resolution No. 5467

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

City Council approve Resolution 5467

Background Summary:

As part of the State of Washington's Capital Budget, the City of Auburn has received a $500,000 appropriation for the Auburn Arts & Culture Center. It is identified in the Capital Budget as part of the funding for the Department of Commerce 2020 Local and Community Projects. The Department of Commerce requires an administrative fee of $10,000 for this grant so the City will be awarded a total of $490,000.

The City worked diligently with legislators in the 47th District and others that represent Auburn to support the project. State Representative Pat Sullivan has been Auburn's champion during the Legislative Session this year in support of this particular project. We've received exceptional support from Representative Drew Stokesbary as well.

The City of Auburn has been working to raise funds to transform Auburn's 1937 historic Post Office into a vibrant Arts & Culture Center and redefine it as a central hub where the community can come together to learn, create and share. The building was converted into a King County Public Health facility in 1964. Vacant since 2009, the building was purchased by the City of Auburn in August of 2016 with the intent to restore this architectural and historic treasure.

A total of $1,407,200 has been secured for the project which will be used to fund the main floor remodel along with some cosmetic improvements to the basement. Funding is as follows: $490,000 State of Washington Grant; $360,000 4Culture Grant Funds; $15,000 Multicare Grant; $542,200 City of Auburn Fund (Park Impact Fees). A portion of the total funding, $248,000, has already been spent on restoring the windows and demolishing the interior of the main floor.

Reviewed by Council Committees:

Councilmember: **Staff:** Faber

Meeting Date: November 4, 2019 Item Number: RES.B

RESOLUTION NO. 5467

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN AGREEMENT BETWEEN THE CITY OF AUBURN AND THE WASHINGTON DEPARTMENT OF COMMERCE TO ACCEPT AND EXPEND GRANT FUNDS FOR INTERIOR RESTORATION OF THE AUBURN ARTS AND CULTURE CENTER

WHEREAS, restoration of the historic post office building is necessary to provide a lobby & gathering area, gallery spaces, classrooms, a visiting artist studio, a café/concession space, bathrooms, and an office area for the Auburn Arts and Cultural Center; and

WHEREAS, the Department of Commerce has authorized a four-hundred, ninety thousand dollar ($490,000.00) grant to the City for restoration of the center; and

WHEREAS, to receive the funds, the City must execute a grant agreement with the Department of Commerce.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RESOLVES as follows:

Section 1. The Mayor is authorized to negotiate and execute a grant agreement with Washington Department of Commerce for grant funds in an amount not to exceed $490,000.00, or such other amount as the granting agency is willing to provide, as long as any matching City funds are approved in the budget.

Section 2. The Mayor is authorized to expend grant funds received under authority of this resolution, and to enter into all agreements consistent with the purposes of the grant.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: _____

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5468 (Faber)

Date:
October 30, 2019

Department:
Parks/Art and Recreation

Attachments:
Resolutuion No. 5468

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

City Council approve Resolution 5468

Background Summary:

The Auburn Senior Activity Center is a partner in the newly formed South King County Senior Centers and Resources Hub, along with the Pacific Senior Center and the Federal Way Senior Center. The Auburn hub was awarded a total $1,592,883 to be distributed between 2019-2023. In 2019, the City of Auburn is expected to receive $109,150 in grant funding for the program. The citizens of the City of Auburn will benefit from this program as it will provide monies to fund low income scholarships, outreach services and individualized resource guidance.

The City of Auburn's portion of the expenditures for this program are expected to be fully funded by the grant. The program expenditures for the City of Auburn in 2019 include staffing for 1.5 Resource Navigators who will guide and assist in connecting seniors and their families to critical resources both locally and regionally. In addition, the grant will pay for a portion of the existing salary and benefits for the Senior Center Supervisor. Additional expenditures in this budget amendment request for 2019 include spending authority for and the one-time purchase of the JULOTA software, purchase of a vehicle, office space set-up, supplies, materials and senior scholarships.

Reviewed by Council Committees:

Councilmember:

Staff: Faber

Meeting Date: November 4, 2019

Item Number: RES.C

RESOLUTION NO. 5468

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN AGREEMENT BETWEEN THE CITY OF AUBURN AND KING COUNTY TO ACCEPT AND EXPEND GRANT FUNDS FOR THE COORDINATION AND PROVISION OF SERVICES FOR SENIORS

WHEREAS, the King County Veteran and Senior and Human Service Levy (KCVSHS) provides transformational funding to competitively-selected senior centers to assist them in becoming vibrant and inclusive senior hubs; and

WHEREAS, KCVSHS awarded the City of Auburn Senior Center grant funds in a total amount of $1,592,883.00 to be distributed between 2019-2023; and

WHEREAS, the KCVSHS grant funding will provide for the distribution of resources to seniors, caregivers and veterans, expand outreach to isolated seniors, and supportive opportunities of engagement for the diversity of seniors in King County; and

WHEREAS, the Auburn Senior Activity Center is a partner in the newly formed South King County Senior Centers and Resources Hub, which also includes the City of Pacific Senior Center and the non-profit Federal Way Senior Center located in unincorporated King County; and

WHEREAS, to receive the grant funds, the City must execute a grant agreement with King County.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RESOLVES as follows:

Section 1. The Mayor is authorized to execute an agreement King County for coordination and provision of services for seniors grant funds in the amount not to exceed

$1,592,883.00, or such other amount as the granting agency is willing to provide, as long as any matching City funds are approved in the budget.

Section 2. The Mayor is authorized to expend grant funds received under authority of this resolution, and to enter into all agreements consistent with the purposes of the grant.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: November 4, 2019

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

CITY OF AUBURN WASHINGTON

AGENDA BILL APPROVAL FORM

Agenda Subject:
Resolution No. 5469 (Gross)

Date:
October 29, 2019

Department:
City Attorney

Attachments:
Res 5469
RES 5469 Exh. A

Budget Impact:
Current Budget: $0
Proposed Revision: $0
Revised Budget: $0

Administrative Recommendation:

Council to adopt Resolution 5469

Background Summary:

At the September 30, 2019 and October 28, 2019 Study Session, Council discussed several proposed revisions and tentatively approved the following changes:

1. Clean up and "de-gender" the rules.

2. Rule 1. The Deputy Mayor will coordinate a review of the rules at least once every calendar year.

3. Rules 3.1N and 3.1O are changed so that the City Attorney does not read the titles of ordinance and resolutions. The change leaves the reading of the title optional. The presiding officer, or the CM making a motion may, but is not required to, read the title.

4. Rule 4.1, Absences. In order for a Councilmember (CM) who will be absent to have the absence excused, the CM should notify the Mayor and Clerk, with a copy to the Deputy Mayor. If the day of the meeting, a phone call is sufficient. Otherwise, email notice is required.

5. Rule 5.1. For regular meetings, if the Mayor and Deputy Mayor are absent the Senior CM will preside. For study session, the order goes Deputy Mayor, then Special Focus Area Chair, then Senior CM.

6.Rule 5.2 City Attorney remains parliamentarian. However, the presiding officer rules on questions of order subject to review by the Council.

7. Rule 6.4. Requires CMs to participate in training, including orientation. Current rules make it a suggestion.

8. Rule 8.4. Clarifies that motions should be made in the affirmative, i.e., moving to approve vs. moving to to reject or deny.

9. Section 9, footnote - Deleted language prohibiting voting in study sessions. Clarified in another section that Council cannot take substantive action, but can vote to request

information, ask that something be put on the agenda, etc...

10. Rule 9.1, Voting. If a CM remains silent, it will count as a "no" vote, as opposed to the current rule that it is a vote with the "prevailing side."

11. Rule 10.2, regarding public comment. language is added that makes this rule consistent with case law that says comments must create an "actual disruption." The rule includes a non-exclusive list of examples of disruptive behavior.

12. Rule 12.1 Election of Deputy Mayor. Timing is clarified that the election shall be held before the end of the year. Qualifications are changed so that a CM must have been on the Council for at least a year before their term as Deputy Mayor begins.

13. Rule 16.1.E.7 Clarifies process for getting subjects onto the Matrix.

14. Miscellaneous non-substantive changes were made to improve clarity.

Reviewed by Council Committees:

Councilmember:	Peloza	**Staff:**	Gross
Meeting Date:	November 4, 2019	Item Number:	RES.D

RESOLUTION NO. 5469

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING THE CITY COUNCIL RULES OF PROCEDURE

WHEREAS, The City Council adopted its Rules of Procedure under Ordinance 5802 (February 4, 2004), which provided that future amendments would be made by resolution; and,

WHEREAS, Council has decided to amend those rules.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RESOLVES as follows:

Section 1. The Rules of Procedure of the City Council, most recently revised by Resolution 5367 (May 7, 2018) are amended to read in substantially the same form as in Exhibit A.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed this _____ day of _____, 2019.

CITY OF AUBURN

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON

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RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON

SECTION 1 - AUTHORITY

The Auburn City Council ~~hereby~~ establishes the following rules for the conduct of Council meetings, proceedings and business. These rules shall be in effect ~~up~~on adoption by resolution of Council and until ~~such time as~~ they are amended or new rules are adopted ~~in the manner provided by these rules~~. The Deputy Mayor will coordinate a review of these rules at least once every calendar year.

SECTION 2 - COUNCIL MEETINGS

All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting of this body, except as provided in RCW Chapter 42.30.

The City Clerk[1] ~~shall be~~ is responsible for preparing agendas for all City Council meetings ~~pursuant to the authority of Section 2.03.100 of the City Code~~[2].

The City Clerk ~~shall cause to be prepared~~ is responsible for preparing action minutes of all of the Council meetings, ~~which minutes shall~~ that contain an account of all official actions of the Council. Council meetings shall be electronically recorded and retained for the period of time as provided by State law.

2.1 **Regular Meetings** - ~~In accordance with Sections 2.06.010(A) and 2.06.020 of the City Code, the r~~Regular meetings of the City Council shall be held on the first and third Mondays of every month in the City Hall Council Chambers located at 25 West Main Street, Auburn, Washington[3]. The regular meeting location may be changed by a majority vote of the City Council.

~~Regular Council meetings will begin at the hour of 7:00 p.m.~~

Four or more Councilmembers will constitute a~~A~~ quorum ~~shall constitute four or more Councilmembers~~ for the transaction of business.

~~In the event that~~ If a scheduled Regular Council meeting falls on a legal holiday, the meeting shall be held at 7:00 p.m. on the first business day following the holiday.

~~The Presiding Officer shall be as set forth in Section 5.1 herein.~~

The Mayor, as presiding officer, shall be seated at the center of the dais, and the Deputy Mayor shall be seated to the presiding officer's immediate left. When the Deputy Mayor is acting as the presiding officer, in the absence of the Mayor, the Deputy Mayor shall be seated in the center of the dais. The seating arrangement for the other members of the Council shall be as directed by the City Council ~~pursuant to~~by a motion ~~duly made and seconded and~~ approved by a majority of the City Council, following the recommendation of an ad hoc committee of three Councilmembers ~~called for that purpose~~. The seating arrangement will be decided once every calendar year.

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[1]The City Clerk may delegate any of the duties in these Rules to staff.

[2] 2.03.100 Meeting coordination duties.

The mayor or the mayor's designee shall be responsible for the preparation of agendas for the meetings of the council and of the various boards, commissions and committees of the city, and for including in those agendas the items and issues forwarded by the city council and/or or by the ad hoc committees designated to act on behalf of the city council, and for including in those agendas the items and issues proposed by the mayor and city administration, for consideration by the council. The mayor or the mayor's designee shall also be responsible for publishing notices for meetings and for public hearings for the meetings of the council and the various boards, commissions and committees of the city, and for setting the dates and times for said public hearings, except in those instances when setting dates and times for public hearings is required by statute to be done through council resolution. (Ord. 6405 § 1, 2012; Ord. 5761 § 1, 2003.)

[3]ACC 2.06.010(A), 2.06.020

[See ACC 2.06.010 (Ord. 3916 § 1, 1983; 1957 code § 1.04.010); ACC 2.06.020 (Ord. 3759 § 1, 1982; 1957 code § 1.04.020); ACC 2.06.030 (1957 code § 1.04.060); ACC 2.06.080 (1957 code § 1.04.090).]

2.2 **Study Sessions** - ~~In accordance with Sections 2.06.010(B) and 2.06.020 of the City Code,~~ Study Sessions of the City Council shall be held on the second, fourth and fifth Mondays of every month in the City Hall Council Chambers located at 25 West Main Street, Auburn, Washington[4]. The regular meeting location of Study Sessions may be changed by a majority vote of the City Council. ~~Study Sessions shall be subject to the following:~~

~~A. The Deputy Mayor shall preside over Study Sessions, other than~~except for ~~the Special Focus Areas those portions thereof of the Study Session~~for ~~which Special Focus Areas are scheduled (as described herein below).~~

~~C. Study Sessions will begin at the hour of 5:30 p.m.~~

~~E.~~A. ~~A quorum shall constitute F~~four or more Councilmembers will constitute a quorum for the transaction of business.

~~F.~~B. ~~In the event that~~ If a scheduled Study Session falls on a legal holiday, the meeting shall be held at 5:30 p.m. on the first business day following the holiday.

~~G.~~C. No particular seating arrangement shall be required for the Deputy Mayor or other members of the Council, or for the Mayor or any other persons invited to sit at the table of Study Sessions.

~~2.3 **Regular Meeting Times**:[5]~~
~~The regularly scheduled meetings of the City Council shall be held at the following times, unless re-scheduled and/or reset to different times:~~

~~First Monday of the month - Regular Council Meeting - - 7:00 PM~~

~~Second Monday of the month - Council Study Session - - 5:30 PM~~

~~Third Monday of the month - Regular Council Meeting - - 7:00 PM.~~

~~Fourth Monday of the month - Council Study Session - - 5:30 PM~~

~~Fifth Monday of the month - Council Study Session - - 5:30 PM.~~

[4] ACC 2.06.010(B), 2.06.020
[5] ~~Any of these regularly scheduled meetings may be cancelled if not needed.~~

2.~~4~~3 **Special Meetings** - ~~In accordance with Section 2.06.040 of the City Code and Section 35A.12.110 RCW, a~~A special meeting of the City Council may be called by the Mayor or any three members of the Council by written notice delivered to each member of the Council at least 24 hours before the time specified for the proposed meeting~~. ; provided, however, that n~~No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed, at any special meeting unless public notice of ~~such~~ that meeting has been given by ~~such~~ notice to the local press, radio and television ~~as will be~~that is reasonably calculated to inform the city's inhabitants of the meeting[6].

[See ACC 2.06.040 (1957 code § 1.04.070).]

2.~~5~~4 **Emergency Meetings** - Emergency meetings may be called by the Mayor~~, in accordance with Section 42.30.070 RCW, when by reason of fire, flood, earthquake, or other~~ in case of an emergency~~, there is a need for expedited action by the City Council to meet the emergency, . in which case, the m~~Meeting site notice requirements ~~otherwise applicable shall~~ do not apply.

2.~~6~~5 **Closed or Executive Sessions** - A Council meeting that is closed to the public.~~except to the~~ Council, the Mayor, City Attorney and authorized staff members and/or consultants may attend~~authorized by the Mayor. The public is restricted from attendance~~.

Closed and Executive sessions may be held during Regular and Special meetings of the City Council, and will be announced by the presiding officer. Closed and Executive session subjects are limited to considering ~~such~~ those matters ~~as~~ permitted by State law[7].

[*See* former ACC 2.06.070 (1957 code § 1.04.080).]

2.~~7~~6 **Cancellation of Meetings** - Meetings may be canceled by the Mayor with the concurrence of the Deputy Mayor or, in the absence of either, by the Mayor or the Deputy Mayor, or by a majority vote of the City Council, and proper notice given by the City Clerk.

SECTION 3 - ORDER OF BUSINESS OF REGULAR COUNCIL MEETING AGENDA

All items to be included on the Council's agenda for consideration should be submitted to the City Clerk, in full by 12:00 Noon on the Tuesday preceding each regular Council meeting. The City Clerk shall then prepare a proposed agenda according to the order of business, for approval by the Mayor, or ~~his/her~~their designee. A final agenda will then be prepared by the City Clerk and distributed to Councilmembers as the official agenda for the meeting.

[6] ACC 2.06.040; RCW 35A.12.110
[7] RCW 42.30.110(1), 42.30.140

3.1 The agenda format of the Regular City Council meeting shall be as follows:

A. Call to order.

The Mayor shall call the meeting to order.

B. Pledge of Allegiance.

The Mayor, Councilmembers and, at times, invited guests will lead the Pledge of Allegiance.

C. Roll call.

The City Clerk will call the roll. ~~Councilmembers may request to be excused from a meeting by requesting the same of the Mayor or City Clerk in advance of the meeting. The reason for the request shall be given at the time of the request.~~

D. Announcements, Proclamations and Presentations

A proclamation is defined as an official announcement made by the Mayor or the City Council regarding a non-controversial event, activity or special interest group which has a major city-wide impact.

E. Appointments

Appointing individuals to various committees, boards and commissions. Confirmation of appointments, where confirmation is called for, may be preceded by discussion in executive session, where appropriate.

F. Agenda modifications

Changes to the Council's published agenda are announced at this time.

G. Public Hearings and Appeals

Individuals may comment on public hearing and appeal items. However, ~~provided that when~~ if an appeal is a closed~~-~~record appeal, the matter shall be considered only based on information, evidence and documents in the record. Argument on the appeal shall refer only to matters, information, documents and evidence presented at the underlying hearing from which the appeal is taken, and no new information, evidence or documents may be added, and argument on the appeal may only deal with information, evidence and documents in the record. The presiding officer will state the public hearing and/or appeal procedures before each hearing.

H. Audience Participation

Members of the audience may comment on items relating to any matter related to City business under the Audience Participation period. Comments are limited to three (3) minutes per person, and a total of fifteen (15) minutes per topic. Groups who have a designated speaker may have a total of ten (10) minutes to speak. Public comments sign-up forms will be available at the City Clerk's desk at each meeting for use of those citizens wishing to address the Council. The City Clerk shall serve as timekeeper. The presiding officer may make exceptions to the audience participation time restrictions when warranted~~, in the discretion of the presiding officer~~.

~~Citizens~~ Members of the audience may also speak on individual agenda items on the printed agenda at the time they are considered by the Council as requested by the presiding officer.

I. Correspondence

J Council Ad Hoc Committee Reports

Council ad hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendations to the City Council, if any.

K. Consent Agenda

Approval of the Consent Agenda, including items considered to be routine and non-controversial, may be approved by one motion. Items on the Consent Agenda include but are not limited to the following. Any Councilmember may remove any item from the Consent Agenda for separate discussion and action.

1. Approval of minutes.

2. Fixing dates for public hearings and appeals.

3. Approval of claims and vouchers, bid awards and contracts.

4. Approval of surplus property.

5. Other items designated by the City Council.

L. Unfinished Business

Unfinished business of a general nature that was considered by Council at a previous business meeting ~~and that it was removed from the Consent Agenda for separate discussion and action~~.

M. New Business

Business, other than ordinances and resolutions, that has not been previously before the City Council and items that are removed from the Consent Agenda for separate discussion and action.

N. Ordinances

1. All ordinances shall be in writing. ~~, and the t~~Titles ~~thereof shall~~ may be read aloud ~~by the City Attorney prior to~~ before the ordinance is ~~a~~ voted ~~being called on their adoption,~~ on. ~~provided that a~~Any councilmember may ~~upon~~ request~~, have~~ a full reading of the text of a proposed ordinance ~~prior to~~ before the vote on its adoption. ~~It shall not require a second to t~~The request for a full reading of an ordinance does not need to be voted on. ~~It is further provided, h~~However, ~~that~~ the ~~requirement~~ request for a reading of the title of the proposed ordinance, or a full reading of the text of the proposed ordinance may be waived ~~upon a motion duly made, seconded and approved~~ by a majority of the councilmembers in attendance at the council meeting.

~~2.~~ ~~Prior to~~ Before any ordinance ~~being~~ is considered for adoption by the City Council, the ordinance shall be included on a Study Session agenda~~, for review and discussion as provided in Section 16.1 (C)(5);~~ . ~~Provided, however, that if t~~Council may waive this rule~~he Mayor believes that special, emergency or exigent circumstances exist regarding the to need consider adoption of an ordinance without the ordinance having been placed on a Study Session agenda, the Mayor may place the ordinance on a Regular or Special City Council Meeting agenda with a request that the City Council consider adoption of the ordinance at such Regular or Special Meeting of the City Council. If there is not agreement among members of the City Council as to whether the ordinance should be considered for adoption at the Regular or Special Meeting of the City Council, the matter shall be presented for a separate vote at the Regular or Special City Council Meeting, and decided by majority vote of the members of the City Council at said meeting.~~

~~a. If a majority of the City Council members vote in favor of considering adoption of the ordinance, the consideration of the adoption of the ordinance shall be the next matter before the City Council.~~

~~b. If a majority of the City Council votes in favor of reviewing and discussing the ordinance at a Study Session prior to voting on its adoption, the ordinance shall be placed on an upcoming Study Session agenda for review and discussion.~~

2. .

After a motion to adopt an ordinance has been made and seconded, the Councilmember making the motion is encouraged to give a ~~very~~ brief description of the issues involved with the ordinance, without simply repeating the ordinance title, ~~as read by the City Attorney~~ and may choose to comment on any results of Council discussion or action regarding the issue.

Discussion and debate by the City Council on ordinances will be held ~~prior to~~ before the vote on an ordinance. Councilmembers ~~shall decide whether or not to~~may approve, reject, or amend the ordinance, or postpone the action and direct staff to further review the proposed ordinance.

An ordinance shall be adopted by a ~~majority~~ vote of ~~the City Council, shall require the affirmative vote of~~ at least a majority of the whole membership of the Council. ~~, and p~~Provided, that public emergency ordinances require a vote of a majority plus one of the whole Council membership. A public emergency ordinance is one designated to protect public health and safety, public property, or public peace.

O. Resolutions

All resolutions shall be in writing. ~~, and the t~~Titles ~~thereof shall~~ may be read aloud ~~by the City Attorney prior to~~ before the resolution is a voted ~~being~~ on. ~~called on their passage, provided that a~~Any councilmember may ~~upon~~ request~~, have~~ a full reading of the text of a proposed resolution prior to the vote on its passage. ~~It shall not require a second to the request for a full reading of a resolution.~~ The request for a full reading of a resolution does not need to be voted on. ~~It is further provided, h~~However, ~~that~~ the ~~requirement~~ request for a reading of the title of the proposed resolution, or a full reading of the text of the proposed resolution may be waived ~~upon a motion duly made, seconded and approved~~ by a majority of the councilmembers in attendance at the council meeting.

After a motion to pass a resolution has been made and seconded, the Councilmember making the motion is encouraged to give a very brief description of the issues involved with the resolution without simply repeating the resolution title ~~as read by the City Attorney~~, and the councilmember may choose to comment on any results of Council discussion or action regarding the issue.

Discussion and debate by the City Council on resolutions will be held ~~prior to~~ before the vote on a resolution. Councilmembers shall decide whether or not to amend the resolution, or direct staff to further review the proposed resolution.

A resolution shall be passed by a majority vote of a quorum of the Council, provided that passage of any resolution for the payment of money or that grants or revokes a franchise or license, shall require the affirmative vote of at least a majority of the whole membership of the Council.

P. Mayor and Councilmember Reports

The Mayor and Councilmembers may report on their significant City-related activities since the last regular meeting. The Mayor and Councilmembers shall limit their reports to not more than three (3) minutes, with sensitivity to avoiding duplicate reporting.

Q. Adjournment

3.3. Recess - The foregoing agenda may be interrupted for a stated time as called by the presiding officer to recess for any reason, including closed or executive sessions.

3.4 Amendment to Agenda - The sequence of handling items on the agenda of a particular Regular Council Meeting may be amended from order listed on the printed/approved agenda as follows:

A. Motion to Suspend the Rules. Any member of the City Council may move to suspend the rules ~~so as~~ to ~~provide that~~ allow an item on the agenda ~~may be~~ to be considered ~~taken out of order - considered~~ at a different order or placement in the agenda. ~~Such motion shall require a second, and upon approval by a majority of Councilmembers in attendance at the meeting, the item shall be considered at the point in the agenda as indicated in the approved motion.~~

B. Adjustment of Agenda by ~~Mayor~~Presiding Officer. ~~If the Mayor, as t~~The presiding ~~official~~officer~~, determines that an item on the agenda of a Regular Council Meeting should be taken out of order - considered at a different order or placement in the agenda.as set forth in the agenda - to accommodate members of the City Council or others at the Council Meeting, the Mayor~~ may ~~call for the amendment of the agenda to accomplish such adjustment. Such action by the Mayor does not require a motion or vote by the City Council; provided that if the City Council does not wish to have the item moved - agenda adjusted - as directed by the Mayor, the City Council may, by motion duly made, seconded and approved by a majority of Councilmembers in attendance at the meeting keep the agenda~~

~~unchanged~~adjust the order of items on the agenda, subject to being overruled by vote of the Council.

[*See* former ACC 2.06.110 (Ord. 5687 § 1, 2002; Ord. 4166 § 2, 1986); ACC 2.06.120 (1957 code § 1.04.120.); ACC 2.06.140 (1957 code § 1.04.140.); ACC 2.06.170 (1957 code § 1.04.190.); ACC 2.06.180 (Ord. 5635 § 2, 2002; 1957 code § 1.04.200).]

SECTION 4 - COUNCILMEMBER ATTENDANCE AT MEETINGS

4.1~~4.1~~ Councilmembers shall attend ~~Regular Council~~all scheduled ~~–~~meetings, including committee meetings ~~and Study Sessions~~. Councilmembers shall inform the Mayor or the City Clerk if they are unable to attend any Regular Council meeting or Study Session, or if they knowingly will be late to any such meetings, or unable to stay for the entire meeting. Councilmembers shall inform the Chair of the committee and the City Clerk if they are unable to attend a committee meeting.

A Councilmember will be excused from a meeting if they have submitted a request to the Mayor or City Clerk in advance of the meeting. Written requests should be submitted whenever possible, by email. If the request is made the day of the meeting, it may be made by telephone or in person. The reason for the request shall be given at the time of the request. ~~If a Councilmember has informed the Mayor or City Clerk that he or she is unable to attend such meeting, the minutes for that meeting will show the Councilmember as having an excused absence for that meeting. Provided that e~~Excessive, continued or prolonged absences may be addressed by the City Council on a case~~-~~by~~-~~case basis.

Additionally, Councilmembers shall notify the Deputy Mayor of anticipated absences.

[*See* ACC 2.06.050 and RCW 35A.12.060]

~~4.2 Councilmembers are expected to attend the meetings of the Ad Hoc Council Committees to which they are assigned. Councilmembers should inform the Chair of such Ad Hoc Council Committees or the City Clerk if they are unable to attend any meetings of such Ad Hoc Council Committees, and should inform the Chair or City Clerk if they expect to be late to any such Ad Hoc Council Committee meeting or unable to stay for the entire meeting. If a Councilmember has informed the Chair or City Clerk that he or she is unable to attend such Ad Hoc Committee meeting, the minutes for that meeting, if minutes are required and/or taken, shall show the Councilmember as having an excused absence for that meeting. Provided that excessive, continued or prolonged absences may be addressed by the City Council on a case by case basis.~~

4.3 Councilmembers shall attend the Special Meetings of the City Council. Councilmembers, shall inform the Mayor or the City Clerk if they are unable to attend any such meetings, or shall so inform the Mayor or City Clerk if they expect to be late to any such Special meeting or unable to stay for the entire meeting. If a Councilmember has informed the Mayor or City Clerk that he or she is unable to attend such Special meeting, the minutes for that meeting shall show the Councilmember as having an excused absence for that meeting. Provided that excessive, continued or prolonged absences may be addressed by the City Council on a case by case basis.

4.24 Attendance at Ad Hoc Council Committee meetings and Special meetings will not be considered "regular meetings" for the purposes of RCW 35A.12.060, applicable to Regular City Council meetings. However, in addition to the application of RCW 35A.12.060 to Regular City Council meetings, unexcused absences from any Regular or Special meetings, or Ad Hoc Committee meetings, shall constitute is a violation of these Rules of Procedure.

4.5 At all meetings of the City Council, including but not limited to Regular Meetings, Study Sessions and Ad Hoc Committee Meetings, Councilmembers shall refrain from use of cell phones or other personal communication devices, and shall not send or receive and read e-mails, text messages, or any other social media postings. Councilmembers shall also refrain from side conversations with other individual Councilmembers. Councilmembers shall also refrain from inappropriate or derogatory body language or any other actions that detract from the deportment of the City Council.

SECTION 5 - PRESIDING OFFICER - DUTIES

5.1 Conduct of Meetings

A. The Mayor will preside over ing officer at all Regular and Special Meetings of the Council. shall be the Mayor and in the absence of If the Mayor is absent, the Deputy Mayor will act in that capacitypreside. If both the Mayor and Deputy Mayor are absent and a quorum is present, the Senior the Council shall elect one of its membersCouncilmember will to serve as the presideing officer until the return of the Mayor or Deputy Mayor.

B. Additionally, tThe Deputy Mayor shall serve as the will preside over ing officer for Council Study Sessions, other than those portions thereof for which Special Focus Areas are scheduled (as described herein below). If the Deputy Mayor is absent, the Special Focus Area Chair will preside. If both the Deputy Mayor and the Special Focus Area Chair are absent, the Senior Councilmember will preside.

~~It is further provided that, though not the presiding officer of Study Sessions, t~~The Mayor is encouraged to attend Study Sessions. [8]

[See former ACC 2.06.090 (1957 code § 1.04.100).]

5.2 The Presiding Officer:

A. Shall preserve order and decorum at all meetings of the Council and cause the removal of any person in the audience from any meeting who disrupts the meeting after having been warned to cease the disruptive behavior;

B. Shall observe and enforce all rules adopted by the Council;

C. Shall decide all questions on order, in accordance with these rules, subject to appeal by any Councilmember;

D. ~~Shall recognize Councilmembers in the order in which they request the floor, giving every councilmember who wishes an opportunity to speak, provided that the mover of a motion shall be permitted to debate it first, and provided that the presiding officer may also allow discussion of an issue prior to the stating of a motion when such discussion would facilitate wording of a motion;~~

~~E~~. May affix approximate time limits for each agenda item;

~~F. When matters on the agenda are placed, or are able to be placed under more than one classification or category, as defined by the Order of Business, and the matters involve or are closely related to other subject matter, then the presiding officer may, in the presiding officer's discretion, present such matters before the Council, for discussion, consider and vote, at a different place in the agenda without the necessity of any vote thereon, notwithstanding their initial different placement on the written agenda.~~

[See former ACC 2.06.100 (1957 code § 1.04.170.); ACC 2.06.190 (1957 code § 1.04.210).]

SECTION 6 - COUNCILMEMBERS

[8] ~~For the purposes hereof, whenever the term "Mayor" or "Deputy Mayor" is used, it shall also include the person who, in the absence thereof shall assume actions or responsibilities in place of the Mayor or Deputy Mayor. When the term "presiding officer" is used, it shall refer to the person responsible for presiding over the meeting in question.~~

6.1 Remarks. - Councilmembers ~~desiring~~ who wish to speak shall address the presiding officer, and when recognized, shall confine ~~himself/herself~~ themselves to the question under debate.

6.2 Questioning. - Any member of the Council, ~~including~~ and the Mayor, shall have the right to question any individual, including members of the staff, on matters ~~germane~~ related to the issue properly before the Council for discussion. ~~Under no circumstances shall such questioning be conducted in a manner to the extent that such would constitute a cross-examination of or an attempt to ridicule or degrade the individual being interrogated.~~

6.3 Obligation to the Public Agency. - Notwithstanding the right of Councilmembers to express their independent opinions and exercise their freedom of speech, Councilmembers should act in a way that reflects positively on the reputation of the City and of the community. Councilmembers shall also interact with other members of the City Council and City staff in ways that promote effective local government.

6.4 Council Training. - Councilmembers ~~are expected to~~shall participate in training offered by individuals, agencies, entities and organizations including but not limited to the Association of Washington Cities and the State of Washington~~, so as to afford the Councilmembers the opportunity to better understand their roles as City Councilmembers~~. This includes initial orientation after taking office, and other required or recommended training.

6.5 Participation in Committees, Agencies and Organizations. - To better represent the interests of the City of Auburn, Councilmembers are encouraged to participate in assignments to local, regional, state and national committees, agencies and organizations.

[See former ACC 2.06.130 (1957 code § 1.04.130).]

SECTION 7 - DEBATES

7.1 Speaking to the Motion. - No member of the Council, ~~including~~ or the presiding officer, shall speak more than twice on the same motion except by consent of the presiding officer or a majority of the Councilmembers present at the time the motion is before the Council. The Presiding Officer shall recognize Councilmembers in the order in which they request the floor. The Councilmember who made a motion shall be permitted to speak to it first. The presiding officer may also allow discussion of an issue before stating a motion when such discussion would facilitate wording of a motion

7.2 Interruption. - No member of the Council, or ~~including~~ the presiding officer, shall interrupt or argue with any other member while such member has the floor, other

than the presiding officer's duty to preserve order during meetings as provided in Section 5.2.A of these rules.

7.3 Courtesy. - ~~All speakers, including m~~Members of the Council~~, which includes~~ and the presiding officer, in the discussion, comments, or debate of any matter or issue shall address their remarks to the presiding officer, be courteous in their language and deportment, and shall not engage in or discuss or comment on personalities, or indulge in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant to the question or matter under discussion.

7.4 ~~Transgression. - If a member of the Council shall transgress these rules on debates, the presiding officer shall call such member to order, in which case such member shall be silent except to explain or continue in order. If the presiding officer shall transgress these rules on debate or fail to call such member to order, any other member of the Council may, under a point of order, call the presiding officer or such other member to order, in which case the presiding officer or such member, as the case may be, shall be silent except to explain or continue in order.~~

~~7.5~~ Challenge to Ruling. - Any member of the Council shall have the right to challenge any action or ruling of the presiding officer, in which case the decision of the majority of the members of the Council present shall govern.

[See former ACC 2.06.130 (1957 code § 1.04.130).]

SECTION 8 - PARLIAMENTARY PROCEDURES AND MOTIONS

8.1 Unless specifically provided ~~differently herein~~in these rules, all City Council meeting discussions shall be governed by *ROBERTS RULES OF ORDER, NEWLY REVISED* (latest edition).

8.2 If a motion does not receive a second, it dies. Matters that do not constitute a motion (and for which no second is needed) include nominations, withdrawal of motion by the person making the motion, request for a roll call vote, and point of order or privilege~~; therefore a second is not needed~~.

8.3 A motion that receives a tie vote ~~is deemed to have failed~~fails. ~~, provided that except~~Except where prohibited by law, the Mayor, as presiding official, shall be allowed to vote to break a tie vote.

8.4 ~~When making m~~Motions shall be stated in the affirmative. For example, "I move to approve" as opposed to "I move to reject." ~~,~~ Councilmembers shall be clear and concise and not include arguments for the motion within the motion.

8.5 After a motion has been made and seconded, the Councilmembers may discuss their opinions on the issue prior to the vote.

8.6 If any Councilmember wishes to abstain~~,~~ from a vote on ~~the~~ a motion ~~pursuant to the provisions of Section 9 hereof,~~ that Councilmember shall so advise the City Council, ~~and~~ shall remove and absent ~~himself/herself~~ themselves from the deliberations and considerations of the motion, and shall have no further participation in the matter. The Councilmember should make this determination ~~Such advice shall be given prior to~~ before any discussion or participation on the subject matter or as soon thereafter as the Councilmember ~~perceives~~ identifies a need to abstain.

~~, provided that, prior to the time that a~~ A Councilmember ~~gives advice of an intent to abstain from an issue, the Councilmember shall~~ may confer with the City Attorney to determine ~~if the basis for~~ whether the Councilmember ~~'s intended abstention conforms to the requirements of Section 9~~is required to abstain. ~~If the intended abstention can be anticipated in advance, the conference with the City Attorney should occur prior to the meeting at which the subject matter would be coming before the City Council. If that cannot be done, the Councilmember should advise the City Council that he/she has an "abstention question" that he/she would want to review with the City Attorney, in which case, a brief recess would be afforded the Councilmember for that purpose.~~

8.7 A motion to table is non-debatable and shall preclude all amendments or debates of the issue under consideration. A motion to table is to be used in instances where circumstances or situations arise which necessitate the immediate interruption of the Councilmembers' consideration of the matter then before them. A motion to table, if passed, shall cause the subject matter to be tabled until the interrupting circumstances or situations have been resolved, or until a time certain, if specified in the motion to table. To remove an item from the table in advance of the time certain requires a two-thirds' majority vote.

8.8 A motion to postpone to a certain time is debatable, is amendable and may be reconsidered at the same meeting. The question being postponed must be considered at a later time at the same meeting, or to a time certain at a future Regular or Special City Council meeting.

8.9 A motion to postpone indefinitely is debatable, is not amendable, and may be reconsidered at the same meeting only if it received an affirmative vote.

8.10 A motion to call for the question shall close debate on the main motion and is not debatable. This motion must receive a second and fails without a two-thirds' vote; debate is reopened if the motion fails.

8.11 A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting.

8.12 Motions that cannot be amended include: Motion to adjourn, lay on the table (table), roll call vote, point of order, reconsideration and take from the table.

8.13 Amendments are voted on first, then the main motion as amended (if the amendment received an affirmative vote).

8.14 Debate of the motion only occurs after the motion has been moved and seconded.

8.15 The presiding officer, City Attorney or City Clerk should repeat the motion prior to voting.

8.16 The City Clerk will take a roll call vote, if requested by the presiding officer, a Councilmember, or as required by law.

8.17 When a question has been decided, any Councilmember who voted with the prevailing side ~~-~~may move for reconsideration at the same, or the next meeting. In order to afford Councilmembers who voted with the prevailing side the potential basis for a motion for reconsideration, Councilmembers who voted with the prevailing side may inquire of Councilmembers who voted with the minority as to the reasons for their minority vote, if not stated during debate prior to the vote. A motion for reconsideration is debatable if the motion being reconsidered was debatable. If the motion being reconsidered was not debatable, the motion for reconsideration is not debatable.

8.18 The City Attorney shall act as the Council's parliamentarian and shall ~~decide~~ advise the Presiding Officer on all questions of interpretations of these rules which may arise at a Council meeting.

8.19 These rules may be amended, or new rules adopted, by a majority vote of the full Council.

[*See* former ACC 2.06.160 (1957 code § 1.04.180.); ACC 2.06.170 (1957 code § 1.04.190.); ACC 2.06.200 (1957 code § 1.04.220.); ACC 2.06.210 (1957 code § 1.04.230).]

SECTION 9 - VOTING[9]

[9] ~~The City Council cannot vote on items during a Study Session. At a Study Session, the Deputy Mayor or the Chair of a Special Focus Area will look for "consensus." For the purposes hereof and where consistent with these Rules of Procedure, consensus shall mean a collective position of the City Council where a majority of the members can support or "live with" (accept) the item or proposed discussion. Consensus of the body will be gauged by the presiding officer~~take final~~.~~

9.1 Voice vote - A generalized verbal indication by the Council as a whole of "yea or nay" vote on a matter, the outcome of which vote shall be recorded in the official minutes of the Council. Silence of a Councilmember during a voice vote shall be recorded as a "no" vote ~~with the prevailing side,~~ except where ~~such~~ a Councilmember abstains because of a stated conflict of interest or appearance of fairness issue.

9.2 Roll call vote - A roll call vote may be requested by the presiding officer or by any Councilmember.

9.3 Abstentions - It is the responsibility of each Councilmember to vote when requested on a matter before the full Council. ~~However, a~~ A Councilmember may only abstain from discussion and voting on a question because of a stated conflict of interest or appearance of fairness.

9.4 Votes by Mayor - Except where prohibited by law, the Mayor, as presiding official, shall be allowed to vote to break a tie vote.

[*See* former ACC 2.06.150 (1957 code § 1.04.150).]

SECTION 10 - COMMENTS, CONCERNS AND TESTIMONY TO COUNCIL

10.1 Persons addressing the Council, who are not specifically scheduled on the agenda, will be requested to step up to the podium, give their name and address for the record, and limit their remarks to three (3) minutes, in addition to filling out the speaker sign-in sheet available at the City Clerk's desk. No person may "donate" their time to another speaker. All remarks will be addressed to the Council as a whole. The City Clerk shall serve as timekeeper. The presiding officer may make exceptions to the time restrictions of persons addressing the Council when warranted, in the discretion of the presiding officer.

10.2 ~~Any person making personal, impertinent or slanderous remarks while addressing the Council shall be barred from further audience participation by the presiding officer, unless permission to continue is granted by a majority vote of the Council.~~

Any person who causes actual disruption by failing to comply with the allotted time established for the individual speaker's public comment, making personal attacks, using hate speech, making slanderous remarks or other disruptive conduct while addressing the Council shall be barred from further participation by the Presiding Officer, unless permission to continue is granted by a majority vote of Councilmembers present.

[*See* former ACC 2.06.130 (1957 code § 1.04.130).]

SECTION 11 - PUBLIC HEARINGS AND APPEALS

11.1 Quasi-judicial hearings require a decision be made by the Council using a certain process, which may include a record of evidence considered and specific findings made. The following procedure shall apply:

A. The Department Director of the department ~~(~~most~~)~~ affected by the subject matter of the hearing, or ~~said~~ that Director's designee, will present the City's position and findings. Staff will be available to respond to Council questions.

B. The proponent spokesperson shall speak first and be allowed (10) minutes. Council may ask questions.

C. The opponent spokesperson shall be allowed ten (10) minutes for presentation and Council may ask questions.

D. Each side shall then be allowed five (5) minutes for rebuttal, with the proponent spokesperson speaking first, followed by the opponent spokesperson.

E. The City Clerk shall serve as timekeeper during these hearings.

F. After each proponent and opponent spokesperson have used their speaking time, Council may ask further questions of the speakers, who shall be entitled to respond but limit their response to the question asked.

11.2 Public hearings where a general audience is in attendance to present arguments for or against a public issue:

A. The Department Director or designee shall present the issue to the Council and respond to questions.

B. A person may speak for three (3) minutes. No one may speak for a second time until everyone who wishes to speak has had an opportunity to speak. The presiding officer may make exceptions to the time restrictions of persons speaking at a public hearing when warranted, in the discretion of the presiding officer.

C. The City Clerk shall serve as timekeeper during these hearings.

D. After the speaker has used their allotted time, Council may ask questions of the speaker and the speaker may respond, but may not engage in further debate.

E. The hearing will then be closed to public participation and open for discussion among Councilmembers.

F The presiding officer may exercise changes in the procedures at a particular meeting or hearing, but the decision to do so may be overruled by a majority vote of the Council.

SECTION 12 - DEPUTY MAYOR

12.1 Annually or more often as deemed appropriate, the members of the City Council, by majority vote, shall designate one of their members as Deputy Mayor for a one year time period, except as provided in Section 12.1, Paragraphs G and H ~~herein~~.Elections will be held no later than the last Council meeting of the year.

A. Any member of the City Council who will have served on the Council for one year at the beginning for that Councilmember's terms as Deputy Mayor, may be nominated for the position of Deputy Mayor by having that Councilmember's name placed in nomination by a Councilmember.~~,~~ ~~provided that t~~ The name of the most senior member of the City Council who has not previously served as Deputy Mayor shall automatically be placed in nomination for the position of Deputy Mayor. [The nomination of a councilmember for the position of Deputy Mayor does not require a second, and a councilmember may nominate him or herself.]

1. For the purposes ~~hereof~~of these rules, the most senior member of the City Council, seniority shall be determined by:

   (a) The number of consecutive years, months and days served;

   (b) If the number of consecutive years, months and days served by two or more members of the City Council are equal, the member of the City Council who received the greater/greatest number of votes in the most recent general election in which ~~such~~ those members were elected to the City Council ~~shall be deemed~~ is the most senior.

2. If the most senior councilmember declined the automatic nomination, the name of the next most senior member of the City Council shall be automatically be placed in nomination for the position of Deputy Mayor.

3. If all members of the City Council have previously served as Deputy Mayor, there shall be no automatic seniority nomination.

4. Other than for the automatic nomination of the most senior councilmember who has not previously served as deputy Mayor, all

other nominations for the position of Deputy Mayor shall be made by members of the City Council on the dates of election for the Deputy Mayor position.

5. In connection with the selection of Deputy Mayor, it is strongly suggested that councilmembers approach the election in an open, transparent and respectful manner, avoiding anything that jeopardizes harmony among councilmembers.

B. The Councilmember receiving a majority of the votes cast by the members of the City Council shall be elected Deputy Mayor. A Councilmember may vote for him or herself.

C. The names of all nominees for the position of Deputy Mayor shall be included in the vote.

D. If no single Councilmember received a majority of the votes cast, a second vote/ballot~~,~~ between the two nominees who received the largest number of votes~~, would be needed. In the second vote/ballot, whichever of these two nominees received the larger number of votes would be elected to the position of Deputy Mayor~~will be held.[10]

E. The Deputy Mayor shall serve at the pleasure of the Council.

A. In the event of the absence or unavailability of the Deputy Mayor, the l~~ongest serving~~ senior member of the City Council, other than the Deputy Mayor, shall serve as interim Deputy Mayor until the return of the regular Deputy Mayor.

G. If the designated Deputy Mayor is unable to serve the full term of the position of Deputy Mayor, the Council shall designate the next senior member of the City Council as Deputy Mayor for the remainder of the term. If the appointment is declined the process shall continue until a Deputy Mayor is designated.

H. In the event that the councilmember selected as Deputy Mayor is unable to perform the duties of the position of Deputy Mayor, or fails to act in accordance with the City Council Rules of Procedure, the City Council may, by a majority vote of the full City Council, remove the Deputy Mayor from this position, in which case, the next senior councilmember shall assume the position of Deputy Mayor for the balance of the year. If the next senior councilmember is unwilling or unable to assume the position of Deputy

[10] ~~It may be that i~~If there ~~were a larger number~~are more than two ~~of~~ nominees in the initial election~~, there would not be (only) two councilmembers who received the largest number of votes. For instance, if one nominee received three votes a second nominee received two votes and a third nominee also received two votes, it might be appropriate~~Council may choose to have an ~~initial~~ run~~-~~off votes among~~between~~ the ~~second and the third~~ nominees ~~to determine who would be included in the final run-off against the first nominee~~.

Mayor, the position of Deputy Mayor shall be filled by a majority vote of the full City Council.

[*See* RCW 35A.12.065.]

12.2 The Deputy Mayor, as the head of the legislative branch of the City, shall perform the following duties:

A. Intra-Council Relations:

1. Serve as the Chair of the Council Study Sessions;

2. Serve as an ex-officio member of all ~~other~~ ad hoc committees of the City Council. If the Deputy Mayor's attendance at an ad hoc committee meeting brings the number of councilmembers attending to 4, the meeting ~~, provided that attendance by a quorum of the City Council at ad hoc committee meetings~~ shall comply with the Open Public Meetings Act (RCW 42.30), unless expressly exempted.;

3. Assist in new councilmember training;

4. Support cooperative and interactive relationships among council members;

5. Work with Administration to prepare agendas for Council Study Sessions;

6. Preside over the Study Sessions of the City Council, and work with the chairs of the Special Focus Areas on the portions of Study Sessions over which the Special Focus Areas chairs preside

B. Mayor-Council Relations:

1. Help maintain a positive and cooperative relationship between the Mayor and the City Council;

2. Act as conduit between the Mayor and the City Council on issues or concerns relating to their duties;

3. Preside over Regular Meetings of the City Council in the absence or unavailability of the Mayor;

4. In the event of the a prolonged absence or incapacitation (a state of disability that prohibits the function of duties) of the Mayor, the Deputy Mayor shall perform the duties of the Mayor.

(a) A prolonged absence is defined as requiring a leave of absence that prohibits the performance of the duties of the office. Vacation leave for periods up to two weeks, illnesses requiring an absence of less than two weeks, out of state or out of country travel lasting not more than two weeks, or other similar short-term absences shall not be considered prolonged absences.

(b) In the event of a disaster, emergency, or other similar circumstance, where the Mayor is out-of-town and unable to carry out the duties of the office of Mayor, the Deputy Mayor, in consultation with the Mayor, shall act as Mayor until the return and availability of the Mayor;

5. The Deputy Mayor shall also stand in on behalf of the Mayor in other situations as requested by the Mayor;

6. In the performance of the duties of the Mayor, the Deputy Mayor shall not have authority to appoint, remove, replace, discipline or take other similar action on any director or employee of the City;

7. The Deputy Mayor shall not have veto authority for actions that may be taken by the City Council;

8. The Deputy Mayor shall be aware of City, regional and intergovernmental policies and activities in order to properly execute the role of Mayor.

C. Intergovernmental and Community Relations:

1. Act in absence of Mayor as requested and/or as required;

2. Be aware of all City regional and intergovernmental policies and activities in order to be prepared to step into the role of Mayor if necessary;

3. Serve as the Chair of the City's Emergency Management Compensation Board.

D. Other Duties of the Deputy Mayor:

1. In cooperation with the Mayor and Special Focus Area group's chairpersons and with assistance from Administration, create and establish agendas for all study sessions;

~~2. Preserve the decorum and order at all Council Study Sessions;~~

~~3.~~2. Serve as liaison to the Junior City Council, participating as a non-voting member of the Junior City Council, encouraging, guiding and counseling the members of the Junior City Council in connection with its duties and assignments;

~~3. Assist in training new councilmembers;~~

~~3. Serve as the liaison between the City Council and the Mayor and be a conduit between the City Council and the Mayor on issues or concerns of the Council;~~

~~4.~~3. Facilitate any issue related to the conduct and/or actions of councilmembers that may be inappropriate or that may be in violation of the Council Rules of Procedure (Section 20.1);

~~5.~~4. Conduct regular and periodic meetings with individual councilmembers to address councilmember issues, concerns, legislative processes, councilmember proposals, councilmember training, and other similar related items.

~~6.~~5. Conduct group meetings with councilmembers, provided that such meetings shall not have more than two councilmembers at such meetings. All such meetings at which a quorum of the City Council is in attendance shall be in compliance with the Open Public Meetings Act (RCW 42.30), unless expressly exempted.

[See former ACC 2.06.090 (1957 code § 1.04.100).]

SECTION 13 - COUNCIL POSITION VACANCY OR ABSENCE

13.1 ~~In the event that~~ If an unexpired Council position becomes vacant, the City Council has ninety (90) days from the occurrence of the vacancy to appoint, by majority vote of a quorum of the Council, a qualified person to fill the vacancy pursuant to State law. The Council may make such appointment at its next regular meeting, or at a special meeting called for that purpose. If the Council does not appoint a person within the ninety (90) day period, the Mayor may make the appointment from among the persons nominated by members of the Council.

13.2 ~~In the event of~~ If there is an extended excused absence~~s~~ or disability of a Councilmember, the remaining members by majority vote may appoint a Councilmember Pro Tempore to serve during the absence or disability.

SECTION 14 - COUNCIL MEETING STAFFING

14.1 Department Directors or designees shall attend all meetings of the Council unless excused by the Mayor.

14.2 The City Attorney shall attend all meetings of the Council unless excused by the Mayor, and shall upon request, give an opinion, either written or oral, on legal questions. The City Attorney shall act as the Council's parliamentarian. An Assistant City Attorney shall attend meetings when the City Attorney has been excused.

[See former ACC 2.06.060 (1957 code § 1.04.160).]

SECTION 15 - COUNCIL RELATIONS WITH STAFF

15.1 There will be mutual courtesy and respect from both City staff and Councilmembers toward each other and of their respective roles and responsibilities.

15.2 City staff will acknowledge the Council as policy makers, and the Councilmembers will acknowledge City staff as administering the Council's policies.

15.3 It is the intent of Council that all pertinent information asked for by individual Council members shall be made available to the full Council.

15.4 Individual Councilmembers shall not attempt to coerce or influence City staff in the selection of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or the granting of City licenses or permits. Councilmembers may, at the request of the Mayor, participate in discussions and decisions related to these matters.

15.5 Other than through legislative action taken by the Council as a whole, individual Councilmembers shall not interfere with the operating rules and practices of any City department.

15.6 No individual Councilmember shall direct the Mayor to initiate any action or prepare any report that is significant in nature, or initiate any project or study without the consent of a majority of the Council. This provision, however, does not prohibit individual Councilmembers from discussing issues with the Mayor or making individual requests or suggestions to the Mayor. The Mayor shall endeavor to advise and update the Councilmember(s) on the status or follow-up of such issues.

15.7 All councilmember requests for information, other than requests for legal advice from the City Attorney's Office, shall be directed through the Mayor in order to assign the task to the proper staff. The Deputy Mayor may work with the Mayor's designated staff to prepare Study Session agendas and facilitate Study Session work.

15.8 Any written communication with staff shall also include the Mayor as a recipient.

SECTION 16 - COUNCIL STUDY SESSIONS, COMMITTEES AND CITIZEN ADVISORY BOARDS

16.1 In addition to the regularly scheduled City Council meetings (Regular Council Meetings) scheduled on the first and third Mondays of the month, City Council shall regularly schedule Council Study Sessions on the second, fourth and fifth Mondays of the month for review of matters that would come back before the City Council at Regular Council Meetings. Different than the format for Regular Council Meetings (identified in Section 3 hereof), Study Sessions shall be less formal than Regular Council Meetings and shall give the City Council the opportunity to discuss and debate issues coming before it for action at Regular Council meetings. The format for these meetings shall be as follows:

A. General Business Focus and Special Focus Areas

Study Sessions shall consist of two (2) Focus divisions per meeting; (1) a General Business Focus and (2) a Special Focus Area. The General Business Focus shall be scheduled first, and shall include agenda items that relate to issues of general City concern, items that will be coming before the City Council at upcoming meetings and presentations and reports to the City Council. The Special Focus Area groups shall, on a rotating basis described below, commence their portion of the Study Session following the conclusion of the Study Session General Business Focus, The Special Focus Area groups shall review matters of Council concern related to their areas of oversight responsibility. The Special Focus Area groups shall consist of the following: (1) Public Works & Community Development; (2) Municipal Services; (3) Health & Human Services; and (4) Finance & Economic Development. These Special Focus Area groups shall be tasked with oversight of Council considerations as follows:

1. Public Works & Community Development;
    - Utilities
    - Zoning Codes & Permits
    - Innovation & Technology
    - Transportation
    - Streets
    - Engineering
    - Capital Projects
    - Sustainability
    - Environmental Protection
    - Cultural Arts and Public Arts
    - Planning

2. Municipal Services
    - Police
    - SCORE Jail
    - District Court
    - Parks & Recreation
    - Animal Control
    - Solid Waste
    - Emergency Planning
    - Airport
    - Airport Businesses
    - Sister Cities
    - Multi Media

3. Health & Human Services
    - Human Services Funding
    - Public Wellness
    - Domestic Violence Services
    - Homelessness Services
    - Affordable Housing
    - Community Services
    - Human Resources
    - Medical Community Relations

4. Finance & Economic Development
    - City Budget & Amendments
    - Risk Management
    - Equipment Rental
    - Facilities
    - City Real Property
    - Legal
    - Development Incentives
    - Business Development
    - Economic Development Strategies

    Aside from the above Special Focus Area topics, there shall be a Finance ad hoc Committee to review vouchers and payroll.

B. Scheduling of Special Focus Area.

1. The Special Focus Areas shall conduct their portion of the Study Sessions on 2nd and 4th Mondays of the month on a rotating basis such as follows: Public Works & Community Development, then Municipal Services, then Health & Human Services, then Finance & Economic Development, then Public Works & Community Development, then Municipal Services, and so on.

2. On 5th Mondays of the Month, Study Sessions will not typically include any of the above Special Focus Areas, but may include special topics and issues of general concern to the City Council, including Council operating arrangements and Council Rules of Procedure. It is provided, however, that in order for the City Council to address the matters coming before the City Council, the Mayor and Deputy Mayor may, as they deem appropriate, insert into any Study Session any matters calling for City Council consideration and discussion, regardless of Special Focus Areas.

3. Topics for Special Focus Area consideration (for inclusion in the Special Focus Area portion of the Study Session agenda) shall be determined by the Chair of each Special Focus Area along with the Mayor and the Deputy Mayor, taking into account matters within the topics of the Special Focus Area calling for action or consideration, and suggestions by other Councilmembers of such topics.

C. Meeting Times:

:

Study Sessions shall be scheduled as set forth in Section 2.3, above.

D. ~~Study Sessions should conform to the following:~~

~~Meeting facilitation - the Deputy Mayor shall preside over/conduct General Business Focus portions of Study Sessions. The Councilmember selected to chair the Special Focus Area for the study sessions for which his or her Special Focus Area is scheduled shall preside over/conduct the Special Focus Area of the Study Session.~~

~~Four or more Councilmembers shall constitute a quorum for Study Sessions.~~

1. Three to four hours maximum timeframe (goal).

2. Agenda items should relate to future policy-making, strategic planning or key state or federal issues affecting current or future city operations.

3. Agenda items should be substantive only (*e.g.,* traffic impact fee increase proposals, comprehensive plan updates, rather than day-to-day operational issues. [Non-substantive items (*e.g.*, accepting a grant, authorizing contract bidding, etc.) should go directly to the Regular City Council meeting.

E. Study Session Meeting Format[11]

1. Call to Order

~~The Deputy Mayor shall call the meeting to order.~~

~~5.~~2. Roll call

~~The City Clerk will call the roll. Councilmembers may request to be excused from a meeting by requesting the same of the Mayor or City Clerk in advance of the meeting. The reason for the request shall be given at the time of the request.~~

~~9.~~3. Announcements, Reports and Presentations

~~The Deputy Mayor shall provide any announcements, reports or presentations that need to be shared with the City Council in advance of the agenda discussion items. After that these announcements, reports or presentations, City Council members may have questions or wish to discuss the issues at this time or request that they be put on a future Study Session agenda for further discussion.~~

~~Study Sessions are an opportunity for the members of the City Council to discuss among themselves issues coming before the City Council. Study Sessions do not include a place on the agenda for public audience participation. However at the request of the presiding officer, individuals may be asked to give a report on topics appearing on the Study Session agenda.~~

~~15.~~4. Agenda items for Council Discussion.

~~The Deputy Mayor shall announce each of the various items that are on the agenda for Council discussion, and, as warranted, request a preliminary report from staff or a consultant or other individual(s) involved in the issue. The Deputy Mayor shall endeavor to call upon the members of the City Council in the order of their requests to discuss the Agenda Item.~~

~~After such report(s), if any, the Deputy Mayor shall open the floor for Council discussion on the agenda items in their order on the agenda, unless a different order is approved by a majority of the Councilmembers present.~~

[11] It is the intention of the City Council that Study Sessions shall be televised on the City's public access channel if reasonably possible.

~~Council discussion shall be in conformity with the provisions of Section 7 of these rules, other than the requirement that there be a motion before Council discussion.~~

~~At the conclusion of the discussion, or at the point the Council feels its questions have been answered and discussion vetted, the Deputy Mayor shall move the attention of the Council to the next discussion item on the agenda; provided that if, after a lengthy discussion on a particular agenda item, the presiding officer concludes that discussion should be continued to a later date, the Deputy Mayor may conclude discussion on that agenda item and schedule the matter for a later Study Session.~~

~~With the support of a consensus of Councilmembers, the Deputy Mayor shall call for Study Session agenda items requiring formal Council action to be included in agendas for upcoming Regular Council Meetings.~~

~~27.~~5. Ordinances

~~Prior to an ordinance being included for adoption on the agenda of a Regular or Special Meeting of the City Council, the ordinance shall be included on the agenda of a Study Session for Council review and discussion.~~

~~a. The Study Session ordinance review requirement shall be met even if the version to be considered at an upcoming City Council Meeting is amended from the version included on the Study session agenda following review and discussion at the Study Session.~~

~~b. If, after City Council review and discussion of an ordinance at a Study Session, the City Council is not ready to vote on a proposed ordinance, the ordinance may be included on another Study session agenda for further review and discussion. If there is not agreement among members of the City Council as to whether the ordinance should next come before the City Council at a regular or Special Meeting of the City Council for consideration of adoption or whether it should return for further review and discussion at a Study Session, the matter shall be presented for a vote at the Study Session, and decided by majority vote of the members of the City Council at the Study Session.~~

~~35.~~6. Other Discussion Items

~~The presiding officer and/or members of the City Council may bring up other discussion items to be discussed at this time or to be scheduled for discussion at a future Study Session; provided that if the presiding officer concludes that there is not sufficient time to discuss or continue discussing the topic, the presiding officer may defer discussion or continued discussion to a future Study Session.~~

~~39.~~7. New Business

While Councilmembers are encouraged to coordinate ~~A~~agenda topics for future Study Sessions with the Deputy Mayor in advance, they may be proposed by any Councilmember during New Business.

Councilmembers will identify: a) the subject of the proposed topic; b) whether they've discussed the topic with the appropriate Special Focus Area Chair and/or Mayor or affected Department head to determine whether the subject is already proposed to come before Council; c) the specific information the Councilmember wants to discuss.

~~At Council discretion, production and delivery of a "white paper" in lieu of a future agenda item may be considered.~~ If ~~there is a consensus among the Councilmembers~~a majority of Councilmembers agree, the Deputy Mayor and the Mayor will meet to place the topic on the Matrix for a future Study Session Agenda. Council may also ask staff to provide a written report instead of having discussion. ~~At Council discretion, production and delivery of a "white paper" in lieu of a future agenda item may be considered.~~

~~39.~~ Special Focus Area (
~~39.~~

~~c.~~a. ~~T~~the Chair of the Special Focus Area scheduled for the Study Session~~, on a rotating basis as described above,~~ shall preside over this portion of the study session.)

~~c. The Chair of the Special Focus Area shall call the various items included in the agenda for this portion of the Study Session~~

~~c. The Chair of the Special Focus Area shall also review the Matrix with respect to items related to the Special Focus Area.~~

~~44.~~8. Matrix Review/Update (the Deputy Mayor shall preside over this portion of the Study Session)

~~. Following the conclusion of City Council consideration of the topics of the Special Focus Area, the City Council shall review the Matric of upcoming topics.~~

~~. The Matrix shall consist of topics from all areas of city concern, general concern as well as topics of each of the Special Focus Areas~~

~~50.~~9. Adjournment

~~The Deputy mayor shall adjourn the Study Session after conclusion of discussion on the above agenda items.~~

16.2 A. The Mayor, the Deputy Mayor or a majority of the City Council may establish ~~such~~ ad hoc committees as may be appropriate to consider special matters that require special approach or emphasis.

B. ~~Such a~~Ad hoc committees may be established and matters referred to them at study sessions, without the requirement that such establishment or referral take place at a regular City Council meeting.

C. The Deputy Mayor shall appoint Councilmembers to Council ad hoc committees, provided that the Mayor shall appoint members to Council ad hoc committees if the Deputy Mayor is disabled or precluded from acting in that capacity

D. The Mayor shall appoint Council representatives to intergovernmental councils, boards and committees~~, and the Deputy Mayor shall appoint Councilmembers to Council ad hoc committees, provided that the Mayor shall appoint members to Council ad hoc committees if the Deputy Mayor is disabled or precluded from acting in that capacity~~.

E. Councilmember appointments to intergovernmental councils, boards and committees, including ad hoc committees, shall be periodically reviewed ~~to determine which councilmembers could best be able to represent the City on such councils, boards and committees~~.

16.3 Ad hoc council committees shall consider all matters referred to them. The chair of such ad hoc committee shall report to the City Council the findings of the committee. Committees may refer items to the Council with a committee recommendation or with no committee recommendation.

16.4 Advisory Boards, Committees and Commissions established by ordinance, consisting of citizens appointed pursuant to the establishing Ordinance and serving in the capacity and for the purposes indicated in the Ordinance, shall act as an advisory committee to the City Council.

16.5 Committee Chairpersons shall have broad discretion in conducting their meetings. They will generally follow Roberts Rules of Order, Newly Revised.

16.6 Unless otherwise expressly provided for ~~an~~ when forming an ad hoc committee, it is the intention of the City Council that ~~such~~ ad hoc committees function informally and not in any way that takes action in lieu of or on behalf of the full City Council. The purpose and function of such ad hoc committees shall be to review matters in advance of their consideration by the full City Council, and perhaps record and make recommendations to the full City Council. They are not "committees of a governing body" subject to the requirements of ~~With that, it is the intention that these committees operate informally, without the need for compliance with the~~ Open Public Meetings Act (Chapter 42.30. RCW). Ad hoc committees ~~of the City Council, such committees~~ shall not receive public testimony or allow audience participation in connection with or related to the agenda item being discussed by the Committee~~,~~. ~~Unless otherwise expressly provided for such ad hoc committee, it is the intention of the City Council that such ad hoc committees function informally and not in any way that takes action in lieu of or on behalf of the full City Council. The purpose and function of such ad hoc committees shall be to review matters in advance of their consideration by the full City Council, and perhaps record and make recommendations to the full City Council. With that, it is the intention that these committees operate informally, without the need for compliance with the Open Public Meetings Act (Chapter 42.30. RCW).~~

16.7 Committee Chairpersons shall approve all agenda items and may, at their discretion, remove or add agenda items during the course of the meeting.

SECTION 17 - COUNCIL REPRESENTATION & INTERNAL COMMUNICATION

17.1 If a Councilmember meets with, attends a meeting or otherwise appears before individuals, another governmental agency, a community organization, or a private entity or organization, including individuals, agencies, or organizations with whom or with which the City has a business relationship, and makes statements directly or through the media, commenting on an issue that does or could affect the City, the Councilmember shall state the majority position of the City Council, if known, on ~~such~~ that issue. Personal opinions and comments which differ from those of the Council majority may be expressed if the Councilmember clarifies that these statements do not represent the City Council's position, and the statements are those of the Councilmember as an individual. Additionally, before a Councilmember discusses anything that does or could relate to City liability, the Councilmember should talk to the City Attorney or the City's Risk Manager, so that the Councilmember would have a better understanding of what may be said or how the discussion should go to control or minimize the City's liability risk and exposure.

17.2 Councilmembers need to have other Councilmember's concurrence before representing another Councilmember's view or position with the media, another government agency or community organization.

17.3 Councilmembers shall not knowingly communicate with an opposing party or with an opposing attorney in connection with any pending or threatened litigation in which the City is a party or in connection with any disputed claim involving the City without the prior approval of the City Attorney, unless the Councilmember is individually a party to the litigation or is involved in the disputed claim separate from the Councilmember's role as a City official.

17.4 Communication among Councilmembers shall conform to the following parameters:

A. Except in connection with Council members meeting, informally, in committees not subject to the Open Public Meetings Act, to assure that communication on agenda items occurs to the greatest extent possible at the public meetings, and to avoid even the perception that email is being used in a way that could constitute a public meeting, *e.g.*, successive communications on City Council topics that involve a quorum of the Councilmembers. Councilmembers should refrain from emailing Councilmembers about such agenda items. Councilmembers should be prepared to communicate about matters that are on upcoming Council agendas at the public meetings. If Councilmembers wish to share information with other councilmembers about matters that are on upcoming agendas, the councilmembers should forward that information to the Mayor for distribution in the council meeting packets.

B. Councilmembers may communicate via email to other Councilmembers, including to a quorum of the full City Council about matters within the scope of the City Council's authority or related to City business, but not yet scheduled on upcoming Council agendas, to indicate a desire that certain items be included on upcoming meeting agendas; provided that Councilmembers shall never ask for responses from the other Councilmembers in that communication.

C. Email communication among Councilmembers relating to City operations should also include the Mayor as a recipient/addressee.

D. Councilmembers may email the Mayor about City business without limitations or restrictions.

17.5 Internet & Electronic Resources/Equipment and Facility Use.

A. Policy. It is the policy of the City Council that Internet and electronic resources equipment use shall conform to and be consistent with the requirements of City of Auburn Administrative Policy and Procedure 500-03, "Internet & Electronic Resources/Equipment Use – Elected Officials." ~~adopted hereby and incorporated herein by this reference.~~

~~It is important to note that a~~All letters, memoranda, and interactive computer communication involving City Councilmembers and members of advisory boards and commissions, the subject of which relates to the conduct of government or the performance of any governmental function~~, with exceptions stated by the Public Records Act (RCW 42.56)~~, are public records.

B. Electronic Communications.

1. Informal messages with no retention value and that do not relate to the functional responsibility of the recipient or sender as a public official, such as meeting notices, reminders, telephone messages and informal notes, do not constitute a public record. Users should delete these messages once their administrative purpose is served.

2. All other messages that relate to the functional responsibility of the recipient or sender as a public official constitute a public record. ~~Such~~ Those records are subject to public inspection and copying.

3. Electronic communications that are intended to be shared among a quorum of the City Council or of an ad hoc Council Committee, whether concurrently or serially, must be considered in light of the Open Public Meetings Act, if applicable. If the intended purpose of the electronic communication is to have a discussion that should be held at an open meeting, the electronic discussion shall not occur. Further, the use of electronic communication to form a collective decision of the Council shall not occur.

4. Electronic communication should be used cautiously when seeking legal advice or to discuss matters of pending litigation or other confidential City business. In general, electronic communication is discoverable in litigation, and even deleted electronic communication is not necessarily removed from the system. Confidential electronic communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived.

5. Electronic communication between Councilmembers and between Councilmembers and staff shall not be transmitted to the public or news media without the filing of a public disclosure request with the City Clerk.

6. ~~As a cautionary note, if an elected public official u~~Even if a ~~ses his or her~~ Councilmember uses their personal electronic devices all ~~home computer to send electronic communications dealing with City business, the~~ electronic communications and documents related to City business will ~~and electronic records may~~ be subject to discovery demands and public disclosure requests. ~~That possibility amplifies the need for caution in how one uses electronic communication for City business.~~

C. Use of City Equipment and Facilities.

1. City Councilmembers are provided various tools to assist them in handling the business of the City in the role as members of the City Council. These tools include, but are not limited to: (1) an individual office assigned to each Councilmember in which there is (a) office furniture; (b) a computer accommodating access to the City's computer network and (c) a telephone tied to the City's telephone system; (2) and I-Pad or comparable equipment also tied to the City's computer system that can be used remotely (not just in the Councilmember's office); (3) , an I-Phone or comparable equipment accommodating mobile communication needs for (a) telephone calls, (b) emails, and (c) texting; (4) a City badge accommodating physical access to City Hall facilities and Council Offices; and (5) Council mailboxes.

2. In order to assure transmittal of information necessary to conduct business of the City and to avoid Public Records Act liability for the City and Councilmembers for improper or private equipment use, Councilmembers shall use the tools identified above to assist them in being able to receive and work with information related to duties as councilmembers.

17.6 Council Relations with City Boards and Commissions.

A Council Liaisons.

~~Different than~~In addition to where a City Councilmember is appointed by the City Council or the Mayor to serve as a member of a board, commission, committee, task force or any other advisory body, the City Council may, on limited occasions or under unusual circumstances, appoint a Councilmember to serve as a non-member Liaison to a board, commission, committee, task force or any other advisory body. Anytime a Councilmember is appointed as such a Liaison, the position or role of Liaison is subordinate to that of Councilmember, and the Councilmember's responsibility is first and foremost to the City and to the City Council. The role and responsibility of the Councilmember-Liaison is to keep the City Council apprised of the activities, positions and actions of the entity or organization to which the Councilmember has been appointed Liaison, and not to communicate to the board, commission, committee, task force or other advisory body a statement as the position of the City Council, except as authorized or directed by the City Council. Insofar as a Council Liaison position does not give all councilmembers equal access to the activities, functions and information of or about a board, commission, committee, task force or any other advisory body, appointments to Council Liaison positions should be reserved to those instances where a Report to the Council by the

board, commission, committee, task force or any other advisory body would not be convenient or practical.

B. Reports to the Council.

Each board, commission, committee, task force or any other advisory body of the City shall be requested to present a report to the City Council at a Regular Meeting or a Study Session of the City Council, as scheduled by the Mayor or Deputy Mayor. Such reports shall be scheduled for a Regular Council Meeting or a Council Study Session, and shall be delivered by the chair of the board, commission, committee, task force or any other advisory body or designee. The reports shall inform the City Council of the activities, functions and information with which the board, commission, committee, task force or any other advisory body has been involved since the previous report, and shall include the opportunity for questions by Councilmembers.

17.7 Whenever a member of the City Council attends any meeting of any other entity or organization, he or she should endeavor to be prudent in what he or she says or does at such meeting. Further, the Councilmember should avoid attending such meeting if that attendance would impose an interference with the meeting or the operations of the other entity or organization, or of the operations of the City.

SECTION 18 - TRAVEL AUTHORIZATION

18.1

A. Value of Council Travel.

The Auburn City Council recognizes the need of its members to attend conferences, trainings, and meetings to broaden their knowledge of and familiarity with a diverse collection of City-related issues, including, but not limited to Public Works, Communications, Transportation, Economic Development, Public Safety and Energy. These conferences also provide valuable opportunities to network with other city elected officials. Comparing Auburn's specific issues with those of other cities often provides the City Council with established policies already in place in other cities that can be adapted to meet the specific needs of the City of Auburn, as well as expediently and efficiently acquainting Auburn City Councilmembers with ideas of how to address Auburn issues and solve Auburn problems.

B. Annual Budget Amounts for Council Travel

To accommodate Council travel, the Auburn City Council shall allocate an identified amount of money each year in the ~~Cty~~City budget process~~, whereby to~~ each Councilmember ~~shall have an identified amount of money earmarked~~ for ~~his/her~~ City~~-~~related travel costs, including transportation, lodging, meals and registration costs.

C. Adjustment of Council Travel Allocations.

~~In the event that~~ If a councilmember needs more than the amount of travel related funds allocated for ~~his or her~~ their use, the councilmember shall (1) see if there are unused funds available from any other councilmember(s) who are willing to transfer funds from their account to the councilmember needing additional travel funds. If so,~~, whereby,~~ with the consent of the Deputy Mayor and the other transferring councilmember(s), funds will be transferred to the requesting councilmember's allotment; or (2) shall request a net adjustment~~s~~ to the budget adding additional funds to ~~his or her~~ their allotment, which adjustment shall be approved by a majority of the whole City Council.

D. Receipts and Travel Documentation

Each City Councilmember shall be responsible for providing to the Mayor or Finance Director, within ten (10) business days of returning from City travel, any and all City travel related receipts and documentation. Quarterly reports of the travel costs incurred by each councilmember shall be provided by the Finance Department.

SECTION 19 - CONFIDENTIALITY

19.1 Councilmembers shall keep confidential all written materials and verbal information provided to them during Executive or Closed Sessions and as provided in RCW 42.23.070, to ensure that the City's position is not compromised. Confidentiality also includes information provided to Councilmembers outside of Executive Sessions when the information is considered by the exempt from disclosure under exemptions set forth in the Revised Code of Washington.

SECTION 20 – ENFORCEMENT OF RULES OF PROCEDURE

20.1 Councilmembers shall conform their conduct to the requirements, standards and expectations set forth in these Rules of Procedure. In addition to and notwithstanding whatever other enforcement mechanisms may exist for legal, ethical or practical obligations on Councilmember performance or conduct, violations of these Rules of Procedure by Councilmembers may be enforced by action of the City Council through sanctions such as votes of censure or letters of reprimand, and such other action as may be permitted by law.

City Council Rules of Procedure:

Adopted: February 2, 2004
Ordinance No. 5802
Amended by Resolution No. 4282, December 17, 2007
Amended by Resolution No. 4429, December 15, 2008
Amended by Resolution No. 4467, April 6, 2009
Amended by Resolution No. 4615, July 6, 2010
Amended by Resolution No. 4686, February 22, 2011
Amended by Resolution No. 4740, August 15, 2011
Amended by Resolution No. 4813, May 21, 2012
Amended by Resolution No 4909, February 19, 2013
Amended by Resolution No. 5105, November 3, 2014
Amended by Resolution No. 5112, December 1, 2014
Amended by Resolution No. 5115, December 15, 2014
Amended by Resolution No. 5217, May 2, 2016
Amended by Resolution No. 5240, July 5, 2016
Amended by Resolution No. 5283, February 21, 2017
Amended by Resolution No. 5308, August 7, 2017
Amended by Resolution No. 5367, May 7, 2018
Amended by Resolution No. XXXX, November 4, 2019